

Chinese Human Smuggling in Transit

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"[...] most countries have closed their borders against the influx of Chinese emigrants, in whole or in part. It is therefore self-evident that the Chinese people strive to evade the emigration laws of the nations surrounding them, and that human smuggling abounds. In this, members of the large immigrant communities in the Netherlands are only too glad to assist" (Van Heek, 1936).

"[...] de meeste staten hebben hun grenzen voor den toevloed van Chineesche landverhuizers geheel of gedeeltelijk gesloten. Het ligt dus voor de hand, dat de Chineezzen trachten de emigratielwetten der hen omringende landen te ontduiken en dat de menschenmokkelarij welig tiert. Ook de leden der groote Chineesche immigrantenkolonies in Nederland verleen en gaarne hun medewerking" (Van Heek, 1936).

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1 Introduction

1.1 INTRODUCTION

Although human smuggling is not exclusive to one particular ethnic group, a few notorious incidents have focused much attention on the smuggling of Chinese nationals for years. In June 1993, for example, the cargo ship “Golden Venture” ran aground off the US coast near New York. It carried 286 Chinese illegal immigrants on board. Several drowned when they tried to swim ashore but were overcome by the cold water. The ensuing investigation revealed that conditions on board were abominable and accounts of the horrors the passengers suffered during the journey found their way to the media. In later years similar transports were discovered (Wang, 1996). This drew attention to the smuggling of Chinese people in particular in the United States. The so-called Dover tragedy caused a similar uproar in Europe. On 19 June 2000 a cargo truck was found in Dover containing the bodies of 58 Chinese nationals who had died of suffocation. Only two survived the journey. The investigations and prosecutions that followed exposed a large group of human smugglers in the Netherlands.

In addition to such notorious incidents, Chinese human smuggling is also connected with several alarming observations. Early 2004, 21 illegal Chinese cockle-pickers drowned near Morecambe in Great Britain. According to media reports, they were being grossly exploited. There were allegations of gang masters forcing these illegal immigrants to do dangerous work under appalling conditions for very low wages to earn back the money they owed for being smuggled out of China (BBC, 2004). If we limit the scope to the Netherlands, which in the following chapters will become the focus of this study, exploitation ensuing from Chinese human smuggling is also considered a problem. Bovenkerk and Fijnaut, for example, states that some of the people smuggled into the country are recruited by the criminal organizations that bring them here (Bovenkerk & Fijnaut, 1996). Vogels et al. also report that illegal migrants are forced to extort, threaten and kidnap people in their own Chinese community in order to pay off their debts (Vogels, Geense, & Martens, 1999: 124). These debts are estimated at tens of thousands of euros per person, which is the cost of smuggling them from China (Godfroid & Vinckx, 1999: 37, 63, 233; Vogels et al., 1999: 123). Furthermore there are suspicions that underage female Chinese asylum seekers are forced into prostitution (Hoogendoorn, 1999; Venicz & Vanwesenbeeck, 1998). The Dutch authorities also assume that human smugglers are to a great extent responsible for the influx of asylum seekers (Tweede Kamer, 1995: 1; Van der Molen-Maesen, 1996; 1999). As a result, therefore, “the criminal prosecution of human smugglers [has become] an essential element in managing migration flows” (Tweede Kamer, 1995: 1).

However, cracking down on human smugglers is no simple affair. Apart from difficulties arising investigating and prosecution, repressive government action can also have perverse effects. It might inflate smuggling prices and raise

the risk for small-time smugglers and thereby give rise to professional large-scale smuggling organizations (Akinbingöl, 2003; Florin, 1996).

1.2 OBJECTIVE

In the media, the literature and even police investigations, Chinese people who are somehow involved in human smuggling on the wrong side of the law are often nicknamed *shetou*. This is a Chinese word that literally means ‘snakehead’, and is never applied to other nationalities. It alludes to the head of a snake, which cunningly leads the rest of the body to its destination.

Such a term can be distracting however. It clearly focuses on ethnic Chinese smugglers although the smuggling of Chinese people is not always a purely Chinese issue. Reports on the investigation of the Dover tragedy for example, show that Dutch and Turkish individuals were also involved. Furthermore, the term *shetou* says very little about what such a person actually does nor how he cooperates with others. It is these two latter questions that in particular have been addressed in some landmark studies (Chin, 1999; Kwong, 1997, 2001; Wang, 1996; Zhang & Chin, 2002; Zhang & Gaylord, 1996).

However, these studies of Chinese human smuggling originate in the United States and hardly pay attention to Europe, let alone the Netherlands. That begs the question to what extent the American findings apply to the Netherlands. The difference in geographical position alone suggests there will be differences in smuggling methods. Furthermore, US society has different laws, a different social security system and a more open labor market than the Netherlands. This can affect the sort of smugglers involved, the choice of destination and perhaps the type of migrant. Another important difference is that the Netherlands is regularly used as a transit country (IAM 2005). The US, the land of unlimited opportunity with its ‘golden mountains’, is unlikely to be used for that purpose. Only a few Chinese would want to be smuggled into another country once they had reached America. This has certain consequences. A tight labor market in the Netherlands may prompt migrants to seek better conditions elsewhere. However, if the US employment situation took a turn for the worse, migrants may tighten their belt a little more, work harder or even turn to crime to survive.

Little is known about how smuggling to or through the Netherlands is organized. Information from the Netherlands indicates only the global travel routes, the means of transport used or the length of time a smuggling operation takes (Buitenhuis, 2000; INDIAC, 2000). The Dutch authorities report the involvement of triads and groups of major organized criminals, but give no details about how these groups actually function (IAM, 2001a: 64; 2002; Bovenkerk & Fijnaut, 1996). Occasionally, a few members of the Chinese community are interviewed. This produces anecdotal information that suggests a streamlined organisation is involved, but still provides little insight into precisely how the smuggling is organized (Braam, 2003; Godfroid & Vinckx, 1999; Husken & Kagie, 2002). Although the smuggling of Chinese nationals is considered a classic example of major organized crime, there is little empirical evidence to support this assumption.

The lack of knowledge about Chinese human smuggling in the Netherlands is all the more remarkable considering the fact that several studies of the Chinese community have been conducted since the Second World War. However, the focus of these studies was their position in society, how they experience their ethnicity and the related problems (ACB/LFCO, 1994; Benton & Vermeulen, 1987; Blaak, Engelhard, de Frenne, & Sproet, 2004; Hira, 1997; Li, 1999a, 1999b; Pieke, 1988; Tseng, 1983; Vellinga & Wolters, 1966; Vellinga & Wolters, 1973; Vermeulen, 1984). Other recurring themes in studies of Chinese people in the Netherlands are childrearing and the education of children in Chinese families, the position of elderly Chinese and ethnic entrepreneurship (Geense & Pels, 1998; Rijkschroeff, 1998; Sciortino, Wessels, & Teng, 1993). The fact that most of the researchers have a sociological or anthropological background probably explains to some extent why these studies focus on analyzing the position that the Chinese have in society. Another important factor is the debate at government level about minorities in the Netherlands that began in the early 1980s. The Chinese themselves were interested in the question whether they as a group should be included in the special minorities policy of the Dutch government. For example, Turkish, Moroccan and Surinamese immigrants already had official minority status. Inclusion in the minorities policy would make the Chinese eligible for minority grants.¹

Human smuggling and illegality are not dealt with in such studies. At most, these studies acknowledge the presence of illegal Chinese aliens or that illegal entry of the Netherlands occurred (Benton & Vermeulen, 1987: 9; Groenendijk, 1987: 87, 88; Vellinga & Wolters, 1966: ii, 66; Vermeulen, 1984: 115; Vogels et al., 1999; Willems & Cottaar, 1989: 125). The way these people got into the country is virtually ignored. It could be that some researchers were afraid to delve into illegality or illicit behavior for fear of stigmatizing migrant communities (Kyle & Koslowski, 2001: 11,12).

Two exceptions emerged recently. Pieke et al. conducted specific research in Europe on the transnational Chinese community from Fujian province (Pieke, Nyíri, Thuno, & Ceccagno, 2004). Their field interviews provided some information about illegal migration, too. The organization of human smuggling was shown to be relatively simple. The study was limited, however, because it focused only on Chinese from Fujian province, while Europe has many migrants from Zhejiang province as well. The second study was carried out by Staring et al. (Staring et al., 2005). They were commissioned by the Rotterdam police to examine human smuggling involving the port of Rotterdam. They analyzed 11 police investigations and identified two model types of smuggling organizations on a sliding scale from poorly organized to well organized. The Chinese were found to be well organized. However, as the researchers themselves point out, the cases selected for this study were limited geographically to Rotterdam. Furthermore, only three human smuggling cases involved Chinese. Those three cases are, in fact, closely related to each other and are therefore not necessarily representative of Chinese human smuggling in the rest of the Netherlands.

1. After receiving 'observer' status in 2002, the Chinese community was finally granted official minority status in 2004.

In summary, therefore, no extensive research has been conducted into the specific phenomenon of Chinese human smuggling in the Dutch context. The aim of this thesis is to provide more information about this issue through systematic empirical research. The focus is not so much on the smuggling routes that migrants take or how migrants survive in Dutch society, but on the organizers of the smuggling process. Who are they? How do they work together? Can specific characteristics be identified? For example, are they involved in other types of criminality as well?

The main research question is: *Who are the smugglers of Chinese people and how is Chinese human smuggling organized in the Netherlands?* The next chapter elaborates further on this general question.

2 Theoretical framework and question

2.1 INTRODUCTION

The transport of illegal migrants can be viewed as a logistics process in which different actions must be undertaken to get them to their destination. Several roles in the smuggling process can be distinguished, such as organizers, recruiters, transporters, document forgers, local guides, enforcers, money launderers and other personnel.

However, there is less consensus about how these people work together. Because the main aim of this research project is to identify how the smuggling of Chinese people is organized in the Netherlands, some background information about this discussion is very important. From a criminological perspective, two concepts can be distinguished. The first assumes strong hierarchical structures, whereas the second assumes a much looser organization through social networks. A market-oriented strategy is often incorporated in both nowadays. That means that smugglers are out to maximize their profits, but are bound to the limitations inherent in operating in an illegal market sector. These ideas originate from the debate that has been running for decades regarding the concept of 'organized crime'.²

It is not necessary, however, to approach human smuggling from a purely criminological angle. It can also be considered part of the migration process (Kyle & Liang, 2001; Salt & Stein, 1997). Smugglers are able to provide illegal transport for a fee to people who are unable to migrate by legal means. Terms such as "migration merchants", "migration broker" and "migration facilitator" are alternative designations for smugglers (Kyle & Liang, 2001; Pieke et al., 2004). These terms show that migration might be an important piece of the human smuggling puzzle. The fields of economics, sociology, anthropology, history and political science – among others – have formulated different ideas regarding migration that can serve as general explanatory models for migration. Yet, knowledge about migration is infrequently applied to the (Chinese) human smuggling setting (Soudijn, 2004). This is probably because human smuggling, of Chinese nationals in particular, quickly evokes associations with organized crime. In contrast, migration is primarily associated with family ties. But the two do not have to be mutually exclusive.

A theoretical framework for answering the question how Chinese human smuggling is organized in the Netherlands is laid out in the following sections. In the first section, the functions involved in human smuggling are set out and described. In the second part, after a brief discussion of organized crime and migration, a number of focal points are then identified. After the definition of

2. 'Organized crime' is difficult to define. See also (Beare, 2003; P. Van Duyne, 2003). To confuse matters, the term organized crime has come to refer to both an actor/group and an activity (Albanese, Das, & Verma, 2003; Levi, 2003; Paoli, 2002).

human smuggling used in this research is given in the third section, these focal points are grouped schematically.

2.1.1 Functions

People smugglers come in all shapes and sizes. For instance, there are major snakeheads (*da shetou*) and minor snakeheads (*xiao shetou*). *Da shetou* are the important figures and principles who remain in the background. *Xiao shetou* are the workers who carry out the various small tasks. Kwong also calls the latter “snaketails” (Kwong, 1997). Since these terms provide no information about precisely what the major and minor snakeheads do, various authors distinguish between the ‘functions’ and ‘roles’ that are necessary in human smuggling (Aronowitz, 2001; Futo & Jandl, 2004; ICMPD, 1999; Klinchenko, 2000; Salt & Stein, 1997; Schloenhardt, 1999; Zhang & Chin, 2002; Zhang & Gaylord, 1996). Regardless of the variations in terminology, there is a distinction between individuals who organize smuggling operations, recruit illegal migrants, provide guidance en route, provide certain facilities (accommodation, transport, food, travel documents, local guides, money laundering services etc.) and, in some cases, assist the migrants in the country of destination. Brief descriptions of each function are given below.

The *organizer*, also sometimes called the *arranger* or *investor*, is seen as the key figure in the smuggling process. He plans the operation, supervises (certain parts of) the execution and invests money in the operation.

Potential illegal migrants contact the smugglers through *recruiters*. The organizer pays the recruiter a certain fee for every individual he brings in. Recruitment takes place in China, along the smuggling route or even in the country of destination. In the first case, potential migrants are sought out in China and encouraged to attempt the journey. In the second case, migrants encountered along the way are enticed to change their destination. The smuggler can try to ‘sell’ the migrant a country that is further away than his original choice. It is also possible for a competing smuggler to try and persuade the migrant to switch services. In the third case, a migrant who has reached his destination can be persuaded to move on to another, better, country. Recruiters often have the same background as the potential migrants and come from the same region. Wang points out that the recruiters’ job is not even that difficult. Many people in China want to leave the country because they believe they can earn a lot of money abroad and are therefore not very critical (Wang, 1996: 53).

The *transporter* or *escort* is responsible for transporting the migrants. His primary task is to get them across the border. In the case of a legal border crossing, he guides them through the border controls, makes sure everyone has good documentation and instructs them on how to act. In a secret border crossing, passports are unnecessary. In such cases, the transporter drives the migrants over the border hidden in a lorry, for example. More than one transporter will often be involved in the journey from China to the West, each of them taking responsibility for a different leg of the journey.

Local guides can be used in an illegal border crossing to secrete migrants over the 'green border', i.e. walking through the woods, or the 'blue border', i.e. wading across a river. Guides are local residents who know the local border area like the back of their hand. They can be deployed only for the area where they live. They are usually also of a different nationality than the people being smuggled. Using local guides is not entirely free of risk. Besides the risk of the smuggled persons being shot by border guards or dying of extreme weather conditions, local guides sometimes turn out to be unreliable. There have been several reports of people being told they had entered Germany, while they had actually only been walking in circles in the Czech forest. In other incidents, smuggled persons were left behind by their guides when discovery by patrolling border guards was imminent or when they could not meet the guide's demand for more money.

When a journey or part of a journey is undertaken using the normal infrastructure, e.g. by airplane, good identity papers are essential. That is where *passport forgers* come in. As the name implies, they forge documents.

Safe houses are used for journeys across several countries over a long period. These are houses or apartments where the smuggled persons can stay temporarily during their journey. Smuggled persons sometimes have to wait in a safe house for months before resuming their journey. When it is necessary for a lot of people to wait in a small place for a long time, *enforcers* are on hand to keep everything under control. They supervise and make sure that the smuggled persons stay calm, using physical violence if necessary. With smaller groups, the escort automatically takes on the role of enforcer during the journey. With larger groups, one of the smuggled persons might be asked to act as an enforcer in exchange for a discount on his travel fee.

Debt collectors ensure that the smuggling fee is paid and pass it on to the organizer. Debt collectors are located in both the homeland and the country of destination. They collect the money from the smuggled person or from his/her friends or family. When smuggled persons fail to pay, debt collectors will bring pressure to bear. Smuggled persons may be given assignments to carry out to repay their debts. These assignments may be of a criminal nature.

Occasionally, *corrupt public officials* provide support. The literature notes that corruption occurs not only in China, but is sometimes a major factor in foreign countries where the smuggling of Chinese nationals is involved. (Chin, 1999: 42-46; Ghosh, 1998: 92; Wang, 1996: 54). Corrupt officials make the journey easier by issuing the required documents or neglecting to carry out border controls.

Various other categories of support staff. The profits from smuggling operations are invested in legitimate enterprises by *money launderers*. They are financial experts and have no other connection with the execution of the smuggling operation. Other individuals put houses, boats or vehicles in their name. *Informants* provide smugglers with information about border controls, police investigations, migration policy and asylum procedures. The smugglers are then able to adapt their activities and make use of differences in the law and border control policy.

Not every smuggling operation involves all of these functions. For example, when a smuggled person flies directly to Amsterdam from China, there is no need for local guides. However, it is unclear which of these functions are carried

out in the Netherlands, let alone how the individuals involved work together. From a criminology standpoint, there are two predominant theories about how the parties cooperate, i.e. within hierarchical structures or looser organizations through social networks.

2.1.2 Hierarchical approach

Human smuggling can be described as an operation carried out by a criminal organisation that maintains a strict hierarchy. The hierarchic (traditional) view of organized crime is often traced back to the findings from several American congressional committees on organized crime, such as Cressey's report for the 1967 Task Force on Organized Crime for the President's Crime Commission. In the literature about organized crime, this commission is presented as effectively painting a picture of the Italian Mafia (Cosa Nostra) as a criminal bureaucratic model (Cressey, 1969). In this model large-scale, ethnically homogeneous, hierarchical entities participate in various highly lucrative criminal activities in a systematic (i.e. bureaucratic) way.

There is also a Chinese equivalent of the Italian Mafia, called the triads (Bresler, 1981; He, 2003).³ Or as Galeotti formulates it: "The only real global rivals to the [Italian] Mafia in terms of breadth, organization and discipline are the Chinese [triads]" (Galeotti, 2000: 51). Descriptions of triads like this one share many similarities, in organizational terms, with the Italian Cosa Nostra in the US described by Cressey. Orders are passed down from the top through a chain of command to lower-ranking members. As in a bureaucracy, all the positions are filled by replaceable members to ensure the continuity of the organization. The individual in charge is assisted by specialists, such as accountants and lawyers. Full membership in the organization is reserved for a select group and involves an initiation rite in which the individual swears allegiance to the organization. There is an internal sanction system to keep the members in line. Corruption as well as intimidation and violence are used in dealing with the outside world. The organization is involved in various forms of crime and strives to occupy a position of power in certain types of crime or geographical areas. Although this can sometimes trigger conflicts between criminal organizations, they often make agreements to facilitate peaceful coexistence.

It is sometimes also suggested that economic principles apply to hierarchical organizations. When a market-based approach is incorporated, similarities between legal and illegal economies are brought to the fore. For instance, the criminal organization benefits from economies of scale. Because transnational criminal organizations are seen as the illegal counterparts of legitimate multinational corporations, criminal enterprises are often looking for new market oppor-

3. Triads are sometimes called *hongmen* (Hong leagues), *sanhehui* or *samhopwui* (three unities society), *sandianhui* (three dots society) and *tiandihui* (heaven and earth society). In an American context, the terms *tongs* and *gangs* are also used (Kaufman, 1986; Kelly, 1999; PSI, 1992; Ryan, 1995; Tracy, 1993). The Chinese themselves more commonly use the term 'black society' (*hei shehui*) to refer to organized crime. The crimes are then called 'black society crimes' (Zhang, 2001). For a detailed report on the emergence of triads, see (Ter Haar, 1998).

tunities (Di Nicola, 2000: 75, 76). They can therefore develop strategic alliances, joint ventures, tactical alliances or contract relationships with other criminal organizations (Williams, 2002: 326, 327). Sterling even speaks of a global *pax mafiosa* between criminal oligarchies, such as the American Cosa Nostra, the Sicilian Mafia, the Chinese Triads, the Japanese Yakuza, the Russian Mafia and the Colombians (ICMPD, 1999; Sterling, 1994).

Through this lens of organized crime, the smuggling of Chinese people is seen as a highly organized criminal activity, carried out (of course) by triadic organizations (Bolz, 1995; Godfroid & Vinckx, 1999; Minthe, 2002; Schmid, 1994). Attendants at a Dutch meeting of asylum and migration experts in May 1999 concluded that “[...] Chinese triads have the entire process under control from beginning to end” (Bijleveld & Taselaar, 2000: 21). Sometimes the triad organizations or gangs involved in human smuggling are given specific names. For example, in America the Fuk Ching is said to be involved (Yiu, 2000: 117). In the Netherlands the involvement of triads with names like the 14K, the Ah Kong and the Tai Huen Chai (also known as the Big Circle Boys) is reported (Bovenkerk & Fijnaut, 1996).

If one assumes that such large criminal organizations are responsible for human smuggling, the individual migrant is in no position to argue. Thus various abuses are easily explained. The smuggled persons are required to repay the high smuggling fees with interest. As a result, they can end up becoming victims if they are forced into prostitution or slavery. They can also be forced to commit criminal acts by the smuggling organization. Examples of such acts include transporting drugs and robbing wealthy restaurant owners. The profits generated by these activities go into the coffers of the organization (Adamoli, Di Nicola, Savona, & Zoffi, 1998; Morse, 2001; Plywaczewski, 2002; Schloenhardt, 2001).

The literature on human smuggling also mentions criminal diversification. Schloenhardt writes that organizations use their tried and tested drug smuggling routes for human smuggling because they offer “new market opportunities” (Schloenhardt, 2001: 340). Both forms of smuggling can also occur at the same time. “It appears that especially Asian organized crime groups use routes, means and methods of transportation for the simultaneous trafficking of people and narcotics” (Schloenhardt, 1999: 216). Bovenkerk and Fijnaut also concludes that the different Chinese criminal groups “are just as likely to [engage in] heroin trafficking as human smuggling, and will engage in robbery and extortion as easily as in loan-sharking” (Bovenkerk & Fijnaut, 1996: 144).

Several authors also mention that increasing the fight against human smugglers is not without risks. There is a possibility more government repression ultimately plays into the hands of the large-scale (hierarchical) criminal organizations. Their professionalism allows them to survive while small-scale smugglers are forced out of the market. This will in turn lead to higher smuggling prices and a further criminalization of the smuggling business (Albrecht, 2002: 17; Di Nicola, 2000: 74; Heckmann, 2003: 152, 153; Koslowski, 2001: 338, 353; Nadig, 2002: 1; Schloenhardt, 2001).

‘Pop crime’ literature and newspaper reporting in particular focus on the hierarchical and bureaucratic nature of triads (Booth, 2000; Bresler, 1981; Faligot,

1996). Cressey, however, appears to have built in some nuances in his original theme. In 1969 Cressey stated in the chapter “Shifting Patterns of Authority and Recruitment” that a hierarchical structure based purely on complete subordination to the welfare of the organization should perhaps be linked to the spirit of the time. In other words, organizations change. He refers in this context to changes within, for example, the army and the police. In the past, a member of such an organization was “required to obey whatever commands his superior gave. In legitimate governmental organizations, this system of rank authority is rapidly giving way to authority based on expertise [...]” (Cressey, 1969: 235). According to Paoli, the Italian Mafia is allowed to flourish in Italy because people are very socially conditioned to tolerate such organizations. Only recently has there been a shift away from that (Paoli, 2003). From that perspective, the structure of a criminal organization could be seen to reflect the society in which it is rooted. There is no harm in considering that a large part of contemporary literature that paints a hierarchical picture of triads is actually, although often unknowingly, based on antiquated data (Morgan, 1960; Schlegel, 1866; Ward & Stirling, 1925). Chinese crime groups are not static entities. They are subject to changes and may very well have evolved into smaller-scale, less tightly controlled organizations. It is also possible that a new, different type of criminal subculture has emerged (Zhang & Chin, 2003: 485). Without formal ties to traditional triads or the need for a strict organization, some entrepreneurs are just looking for profit, even it is on the shady side of the law.

2.1.3 *Social network approach*

From a different perspective, organized crime is seen as occurring through criminal ‘action sets’. From this perspective, organized crime is not about large, bureaucratic structures, but rather loosely connected networks of individuals (Albini, 1997; Ianni, 1971; Ianni, 1973). The Mafia may exist, but it functions more like a traditional social system, facilitated by the extended family and kinship-based relationships.

Although rigid hierarchical relationships like those in the organization model described above appear to be uncommon, relationships characterized by unequal dependence do exist. In this regard, social capital and social network theories are used as tools for analyzing criminal partnerships (Bruinsma & Bernasco, 2004; Kleemans, Brienens, & Van de Bunt, 2002; Klerks, 2000). Not everyone is by definition equal. Some individuals have scarce commodities (money, knowledge, contacts) at their disposal that others do not have. People who are able to bridge social and geographic gaps are therefore very important in a network. Following on from Burt, such nodes in criminal networks can be referred to as structural holes (Kleemans et al., 2002). Certain service providers (money changers, document forgers, etc.) are also important (Kleemans et al., 2002). However, criminals are not necessarily always dependent on one particular node. They usually know someone who knows someone who can provide a solution. Many roads lead to Rome (Van Calster, 2002). This means that networks are usually flexible and fluid in nature. People get involved in criminal groups through

their social connections. After some time they leave the old group, draw other individuals from their social circle into a new criminal enterprise and the cycle begins again (Kleemans et al., 2002; Southerland & Potter, 1993).

Apart from flexible networks, there are also strongly cohesive networks. Examples include ethnically homogeneous groups with affective (family) relationships (Bruinsma & Bernasco, 2004). It is precisely because they are not purely instrumental that these latter networks are durable.

The network concept has also been applied to Chinese crime. Since the 1990s it even uses its own term: *guanxi*. The Chinese word *guanxi* roughly means relationships, networks or patron-client relationships. Attention was drawn to this in part by the publications of a small number of (former) government investigators and other public officials who are 'old China hands', see for example (Hart, 1998; Myers, 1995; Myers, 1997). The term *guanxi* is now fairly common among researchers who study Chinese crime (Beare, 1999; Blaak et al., 2004; Gaylord & Fu, 1999; Kwong, 1997; McIlwain, 2004; Robinson, 2000; Zhang & Chin, 2002; Zhang & Gaylord, 1996). Nevertheless, the term *guanxi* is not used in this study but sticks with social capital. As Ping remarked: "the disadvantage of this [term] is to assume that a cultural essence is involved which in itself accounts for its specificity" (Ping, 2002: 27).

From a market-oriented approach in a network setting, it is preferable to speak of disorganized crime instead of organized crime. This is due to the restrictive effect that legislation and public control can have on a certain market area (the offering of prohibited goods or services). A successful illicit enterprise must first and foremost ensure that it is not discovered, so that it can continue its activities. To avoid arrest and confiscation, the illegal entrepreneur has to run his business with that in mind. This means, for example, putting as little information as possible on paper, being cautious on the telephone, not using banking services, etc. All these factors inhibit the growth of one big criminal enterprise but gives rise to many small criminal groups (Besozzi, 2001; Reuter, 1983; Van Duyne, Kouwenberg, & Romeijn, 1990).

Seen through a set of network-oriented lenses, human smuggling is less rigidly structured. There is no central organization that controls the entire smuggling process (Zhang & Chin, 2002; Zhang & Chin, 2003; Zhang, 1997). For example, when debt collecting is necessary, the job is outsourced to others. In the US, smugglers ask local gangs to act as collection agencies (Chin, 1996: 159, 160; Wang, 1996: 57). A field study of ninety smugglers in the US and China shows that their backgrounds vary tremendously. They are housewives, bricklayers, restaurant owners, taxi drivers and even government officials. There is no clear structure or hierarchy. They consider each other "friends", each with a different role. Only three of the individuals interviewed admitted to having ties with Chinese organized crime groups, but those ties were not connected to smuggling (Chin, 2001).

Although human smuggling may be seen as a business, it is unclear how far the analogy goes (Salt & Hogarth, 2000: 49). Long-term planning and long-term profits are far from certain in human smuggling. "Unlike gambling and prostitution where client recruitment and business promotion are tied to specific individu-

als and locations for long-term profits, human smuggling mostly involves one-time transactions due to limited eligible as well as geographically scattered clientele” (Zhang & Chin, 2003: 481). Building a group identity by swearing oaths and practicing rituals is therefore also irrelevant for smugglers (Zhang & Chin, 2003: 483).

Paradoxically enough, sometimes a completely different conclusion is tied to the interaction between networks and the market. Membership in, for example, a triad may no longer be of definitive importance, but some believe criminal entrepreneurs pose the next global threat due to their flexible and widespread network (Godson, 1997; Myers, 1995; PSI, 1992). Paoli remarks that this will have brought us full circle (Paoli, 2002: 56, 57). The networks are seen more as autonomous structures. A criminal network has thus become a modern synonym for the ‘old-fashioned’ criminal organizations. “In these cases, the bureaucratic approach to organized crime is not challenged: flexibility is incorporated into the ‘criminal organization’ paradigm as just another attribute of the structure. Social relations do not form the base of networks: they are the networks” (Zaitch, 2002: 22).

In short, the human smuggling literature presumes that if hierarchical organizations are responsible for smuggling Chinese nationals, the central steering and control throughout the smuggling process is greater than in networks. Such organizations can also be expected to be involved in heterogeneous criminal activity, while smuggling networks are more likely to rely on outsourcing.

2.1.4 *Migratory approach*

A pure market approach to illicit activities has a specific point of departure. The central point is the opinion that in the pursuit of profit the demand for certain goods and services will always be met. Even if a government disapproves of a certain market and takes action against it, that market will never be entirely dismantled. It, or parts of it, will become an *illegal* market. Human smuggling should therefore not be viewed as a separate entity, but as the illegitimate little brother of legal migration. But what is migration exactly?

Thinking in terms of push and pull factors is a common dichotomy used in models explaining migration. In this respect, the differences between countries are considered important. For example, differences in income level will make labor markets either attractive or repulsive. Attractive areas are those with relatively high employment, better incomes, a higher standard of living and economic growth. These areas draw people from places with high unemployment, low wages, a lower standard of living and slow economic growth, i.e. the repulsion areas. Economic reasons are usually dominant, but religious and political motives (asylum) are also mentioned. However, various obstacles, sometimes referred to as “intervening obstacles”, can interfere with the attraction and repulsion factors. Examples include distances or lack of familiarity with the other country (Lucassen & Penninx, 1994: 67). A country’s restrictive admission or deterrent policy is an example of an intervening obstacle put in place by political or legal authorities. In this regard, various authors point out that it is often not the poorest people who migrate across long distances, apart from any other reason because those individuals do not have the financial resources to pay for the

journey (Goldstone, 1997; Li, 1997; Sowell, 1996). A study by Liang and Ye of migration from Fujian confirms this (Liang & Ye, 2001). However, relative deprivation can be a motive. Or as Entzinger and Carter put it: “Even though many migrants generally do not come from the poorest strata in their own countries, many perceive being relatively poor in a rich country as more enviable than being relatively rich in a poor country” (Entzinger & Carter, 1989: 4).

In order to understand migration flows better at a macro level, it is important to look for possible links between countries of origin and destination. These links, which are also referred to as intermediate structures, can lead to underlying factors actually causing migration (Sassen, 1999). Examples of such links include colonial connections, economic relations, past or current recruitment of guest workers, ethnic connections, military alliances and trade relations. For example, the Chinese community in the Netherlands was established on 17 June 1911, due in part to the recruitment policy of the Dutch shipping industry.⁴ On that date, twenty Chinese seamen were brought over to Rotterdam from Britain by Dutch shipping companies to break a strike (Van Heek, 1936; Wubben, 1986: 9). War ties were also an intermediate structure in the establishment of the Chinese community in Europe. For example, during the First World War France deployed a labour army of over 100,000 Chinese coolies behind the front lines for tasks such as transporting munitions.⁵ These were people from Shandong and the area of Qingtian (Zhejiang province). After the war, many were repatriated, but several managed to remain in Paris. They made their living traveling through Europe (therefore also the Netherlands) peddling wares such as tooled ‘Qingtian stone’ (soap stone) from their home region.

It is also important that modern communication and transport have made it easier for migrants to maintain relationships with those who remain behind. In a study of Mexican migrants, Smith states that modern technology not only enables migrants to keep in better contact with the home front, but also to expand their social and political role in their home region in Mexico while living a life in the US (Smith, 1997: 201-202). This phenomenon is described as living in two worlds. Transnational bonds like these are nevertheless not new. On the basis of his field work on the Hong Kong San Tin community in England in the early 1970s, Watson stated that “[...] the contemporary emigrants are able to exercise a direct, active and important influence on their home community” (Watson, 1977: 348).

In terms of transnationalism in particular, attention is focused on the social fields within which migrants are active that transcend geographical, political and cultural boundaries. Some researchers believe that concepts such as citizenship and sovereignty need to be re-examined because the state no longer has the absolute sovereignty it once had (Sassen, 1996; Sassen, 1999). For example, the state has had to give way to supranational public authorities and NGOs when it comes to controlling flows of goods and capital. Jacobson suggests that in the US and

4. A small number of Chinese are known to have lived in the Netherlands in the 19th century. In 1862, for example, a certain Noni of Suatow lived in Amsterdam temporarily. As a ship's doctor, he had accompanied several Chinese laborers from Hong Kong to Havana, and was returning to China via Amsterdam (Beets, 1862: 6, 7).

5. See also Lucassen for other dates and references (Lucassen, 1998: 56).

Western Europe the concept of citizenship has been devalued because foreign nationals can derive certain social, civil, economic and even political rights from residency alone (Jacobson, 1996). For example, former guest laborers in the Netherlands have the opportunity to exercise the right of family reunification. This allows them to bring their immediate family over to the Netherlands. The right to asylum is another example. Potential migrants who would otherwise not qualify for a long-term stay in the West have the opportunity to obtain a residence permit by exercising their right to apply for asylum. In the 1990s persons of Chinese descent successfully misused the US asylum procedure by claiming hardship under the one-child rule in China (Kung, 2000; Wang, 1996: 60).

In short, the state occasionally erects barriers that inhibit it from effectively pursuing a restrictive migration policy (Muus, 1993), creating intervening opportunities rather than intervening obstacles (Müller-Schneider, 2000: 119). However, Hollifield points out that it is the liberal states *themselves* that have facilitated these (civil, political and social) rights (Hollifield, 2000). For this reason alone neither the state nor government can be simply written off as a concept. Furthermore, Ping states that the emphasis on transnationalism and the decline of the nation state may be inspired by a very Western perspective (Ping, 2002). For example, in China and Malaysia the role of the nation state is certainly not in decline. Yet, these governments are also susceptible to change. By way of illustration, only now do potential migrants have the opportunity to leave en masse because their own governments are (gradually) lifting the restrictions on leaving (Müller-Schneider, 2000). In other words, more and more Chinese citizens are able to obtain passports.

In addition, it is important to note the 'family and friends effect'. In the early 20th century, Siu already wrote: "No one would think of coming to America without having someone here such as his father, uncle, brother, cousin, clansman, kinsman, or friend" (Siu, 1987: 79). This principle is commonly referred to as chain migration (ACB/LFCO, 1994; Pieke, 1988; Sciortino et al., 1993; Vogels et al., 1999; Wieringa & Hu, 1990; Willems & Cottaar, 1989). It is emphasized that individual decisions can only really be understood when they are seen in the light of the network or community to which the individual belongs. Individuals do not make choices in a social vacuum, but are actively involved in a social network across different levels, from the household via the family all the way to the community overseas (Portes & Fernández Kelly, 1989). Migration of a single family member usually causes change in the rest of the family (Hoerder, 1997: 79). The most visible changes are the remittances that migrants tend to send home to maintain their family (Romellón, 1999).⁶

As in the theories on criminal networks, there is wide scope in this approach for the functioning of social capital. See for example (Engbersen, 1999; Espinosa & Massey, 1997; Faist, 1997, 2000; Massey, 1986; Portes & Sensenbrenner, 1993; Van der Leun, 2001). Potential migrants ask family members, friends and acquaintances who have already migrated to provide support in the form of

6. See, for example, the table 'remittance' on the website of the Department for Economic and Social Information and Policy Analysis Population Division of the United Nations: <http://www.un.org/esa/population/pubsarchive/migpol95/timp.htm>.

knowledge, capital or other assistance in arranging the journey, the stay or a job. For Italian migrants, the help of family, friends and acquaintances in finding housing led to the establishment of 'Little Italies' – areas with high concentrations of Italian migrants – in the US. The same principle led to the creation of 'Chinatowns'. By the same token, assistance in finding work also led to 'chain occupations'. These are specific employment niches "to which successive immigrants directed their fellows on the basis of their own experience" (MacDonald & MacDonald, 1974: 232).

Dutch research into illegal immigrants in large cities showed that Portes's and Sensenbrenner's subdivision into types of social capital ties has analytical value (Burgers & Engbersen, 1999; Portes & Sensenbrenner, 1993; Van der Leun, 2001). For instance, reciprocity exchanges take place when a form of assistance is given without the promise of direct monetary repayment. A social, rather than financial, debt is accumulated. For example, migrants help family members and friends to migrate without expecting payment. However, some new arrivals might be asked to help around the house or assist in the restaurant kitchen. Value introduction is socialization of people into consensually established beliefs, leading to principled action. It creates room for apparently less rational reasons for migration. People who grow up in a culture in which migration is commonplace or even attractive will be motivated to migrate. When certain families receive remittances and then display their relative financial prosperity in the homeland (varying from color televisions to multistory houses), that may be sufficient incentive for the families left behind to also send family members abroad. Fujian province is one of the wealthiest areas in China, but many residents believe that "those who migrate do better than do those who stay behind" (Wang, 2001: 347). A family that has a migrant abroad can gain pride and respect if that individual sends money home (Wang, 1996: 59). Visits by successful migrants and their displays of wealth stimulate those who stayed behind to seek their fortune abroad as well (Liang & Ye, 2001). In some Chinese villages, the majority of the men have therefore left and the women work the fields (Kwong, 1997: 31, 53). In China in the 1990s *chu qu* (going outside, i.e. going abroad) became a favorite career plan. Pieke speaks of a "culture of migration" (Pieke, 2002: 32).⁷ Indeed, migrants today come from a broad social spectrum. More and more students, businessmen, women and redundant urban workers are coming to Europe in all kinds of ways (Pieke, 2002).

Social capital takes the positive effects of relationship networks into account, but also offers scope for the negative effects (Portes & Landolt, 1996). A simple rule is that those who are not part of the network are excluded. That means that new migrants without connections find it more difficult to find a job in their own ethnic community. However, negative consequences can also arise within the network. For example, a family in the host country is expected to take in a newcomer even if the situation is completely unsuitable. There is occasionally even a risk of exploitation. The newcomer does not know the language and customs, so he is

7. There are actually old records of this phenomenon. In 1936 it was noted that Guangdong and Fujian exercised such a socio-psychological effect that they had been known as centers of migration for a long time (Van Heek, 1936).

reliant on the more experienced members of the network. In addition, newcomers feel indebted to the family members who mediated their journey. Newcomers might be obliged to repay this debt and will therefore accept poor working conditions in, for example, the family restaurant.

In short, ideas about migration enable us to understand the process. If, from a totally different perspective, human smuggling is added to the equation, it is plausible that, in terms of family and friendship ties, the legal Chinese community in the Netherlands is involved to a certain degree in the illegal entry or stay of new migrants. Entry can be arranged simply by using intervening opportunities such as tourist visas. Furthermore, the pressures of social ties likely ensure that an illegal family member is given shelter and work. No criminal organization is needed for this kind of involvement. Nevertheless, migrants with sufficient social capital are not the only ones who go to the West. Or as Staring remarks, with the rise of professional smugglers, migration is now also within reach of those who have no social network in the Netherlands (Staring, 2001; Staring, 2003).

2.2 DEFINITION AND ELABORATION OF RESEARCH QUESTIONS

Although this study examines the organization of the smuggling of Chinese people, the term ‘human smuggling’ has not yet been defined. Including certain elements in a definition of the act of human smuggling automatically leads to those elements being emphasized in the subsequent empirical research. Different descriptions can thus lead to different outcomes. For example, does a specified amount of money have to be paid for a journey before the process is considered smuggling? It would then be obvious not to take certain cases into account, for example when an uncle covertly smuggles his nephew into the Netherlands in the boot of his car. Or should profit be defined more broadly? The nephew might, for instance, work in his uncle’s restaurant in the Netherlands for less than the minimum wage. The nephew may feel obliged to repay a debt of honor to his uncle by working in the kitchen for a few years. The uncle therefore gains financially from his nephew’s illegal migration. Is illegal (or covert) border crossing then an essential element? Imagine that the members of a naturalized Dutch family were to lend their passports for a large sum to people from their home country, who are then able to enter the Netherlands and stay illegally. This can be viewed as smuggling with the aid of legal resources. Or is it better to define smuggling as a repetitive action? Is a smuggler someone who makes a ‘career or habit’ of it?

Although legalistic definitions are not always entirely appropriate in social science research, Dutch law on human smuggling is useful for this study.⁸ During the research period, Article 197a.1 of the Dutch Penal Code read:

8. Article 197a of the Dutch Penal Code is commonly referred to as the human smuggling article, but the term ‘human smuggling’ does not actually occur in the text of the Act.

“Anyone who, for profit, helps another to enter or stay in the Netherlands or any state that is obliged to carry out border controls for the benefit of the Netherlands or who, for profit, gives another the opportunity, resources or information to enter or stay in the Netherlands while knowing or having serious cause to suspect that that entry or stay is unlawful [...]”.⁹

The examples given at the beginning of this section could therefore all fall within the scope of this criminal law. Notice that Dutch law distinguishes between human smuggling (art. 197a of the Penal Code) and trafficking in human beings (see art. 273a and the old 250a and 250ter of the Dutch Penal Code).¹⁰ Human trafficking has an element of exploitation, whereas human smuggling does not. The difference can also be derived from the chapters in which these articles are placed in the Penal Code. Human smuggling is a public order violation whereas human trafficking is a personal freedom violation. The transported people involved in human smuggling are not usually considered victims because they want to be smuggled. They make a conscious choice to go abroad and upon arrival are free to go their own way. This is not altered by the fact that some are persuaded to go or travel under poor conditions. However, a complicating factor is that smuggled persons *are* sometimes forced to do certain work against their will after arrival. If the work involves prostitution, smuggling clearly becomes trafficking. However, people can also be forced to work other than in prostitution. For example, the United Nations, the European Union and the International Organization for Migration (IOM) indicate that people are sometimes forced to work in the catering or garment making industries. This can be termed socio-economic exploitation (NRM, 2002).¹¹ Since 1 January 2005, this type of exploitation has also been covered by the human trafficking article in Dutch law (art. 274 of the Dutch Penal Code).

Although this study examines the organization of human smuggling on the basis of the definition used in article 197a of the Dutch Penal Code as represented above, prostitution and other socio-economic exploitative practices (which formally fall under another article of law) will not be ignored. This is because in instances where Chinese people are exploited (in any way), the victims are very likely to be people who have been smuggled into the country. It is precisely those who are responsible for their illicit entry that we are interested in.

Now that the activity being studied has been defined as in article 197a of the Dutch Penal Code, a number of questions and hypotheses will be distinguished as regards the smuggling of Chinese nationals to or via the Netherlands. As in the foregoing sections, the organization of Chinese human smuggling can be viewed from three different angles: the hierarchical, network and migratory perspectives.

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9. Article 197a has been amended since then. As of 1 January 2005, the text on, for example, the pursuit of profit in relation to illegal border crossing was deleted.
 10. However, outside of legislation, this difference is not always strictly adhered to. Salt found several terms for smuggling, including alien smuggling, trafficking of aliens, illegal immigrant smuggling, human trafficking, trade of human beings and human commodity trafficking (Salt, 2000: 33).
 11. Also see the classifications on human smuggling and trafficking by the United Nations and the International Organization for Migration (United Nations, 2000a, 2000b).

This is not to say that the smuggling of Chinese nationals is carried out by one particular form of organization. The diversity of people wanting to leave is great and there are many legal and illegal means of entering the West (Zhang & Gaylord, 1996: 4). It is probable that different forms occur simultaneously. The question is what is the best way to describe the Dutch situation. One way to start is to distinguish between types of smugglers:

- Who is involved in smuggling Chinese and what are their characteristics?
- To what extent do these people have different functions in the smuggling process?

The next task is to identify the relationships between the smugglers and smuggling functions. If they are hierarchically arranged (according to the human smuggling literature), the following is plausible:

- Smugglers work together in fixed combinations for long periods.
- The entire smuggling operation from China to the West is centrally managed and monitored.
- Criminal activity is heterogeneous. Groups engage not only in human smuggling, but also in the narcotics trade or extortion, for example.
- Smuggled individuals are at great risk of being exploited by the organization.
- There are few or no family members or fellow villagers among the smugglers' clients.
- Government suppression causes smuggling organizations to develop their professionalism, which involves streamlining the organization and the deployment of violence against witnesses and victims.

When smuggling organizations are seen as looser organizations through social networks rather than hierarchical organizations, the following aspects can be distinguished:

- Various combinations of smugglers can be recognized in smuggling operations.
- There is no central management or monitoring of the entire process. A high degree of cooperation between groups without one group being in charge is inherent in the network approach.
- If there is criminal heterogeneity, it cannot be attributed to a smuggling group but arises from the conduct of a few individuals.
- The smuggled individual is not put to work or otherwise exploited by the smugglers. If exploitation occurs, third parties are responsible.
- The smuggler's clients include family members and fellow villagers.
- Government suppression reinforces the network effect, resulting in more small-scale operations and outsourcing between groups.

Notice that the extent to which violence is used or corruption occurs is not used as a distinguishing factor, because they can occur in both types of organization.

A migratory approach is a third alternative. When the operation is effected primarily through the direct mediation of friends or family members, the following statements are plausible:

- Individual smugglers are most likely involved.
- There is little organization involved in the operation because intervening opportunities can be used.
- There are no connections to the narcotics trade, burglary, violence, etc.
- Exploitation, if it occurs, can be placed within the (negative) framework of social capital.
- The smuggler's clients are restricted to family members or fellow villagers.
- It is difficult to determine the effects of government suppression. Greater pursuit of existing criminal groups will have little effect on people who smuggle family members. By contrast, a broader focus on those who violate the letter of Article 197a would bring more non-criminal people to the attention of the police.

2.3 SECTION STRUCTURE

A number of steps must be taken before any conclusion can be drawn about the foregoing suppositions. Chapter three starts with addressing the research methods and empirical data used in the study.

Chapter four gives detailed information about when, where and how many police investigations into human smuggling in the Netherlands have been carried out. A list of the number of suspects is also provided. Age, sex, nationality, ethnicity and criminal record are also discussed.

A number of functions in the smuggling process can be distinguished on the basis of the literature on human smuggling (see paragraph 2.2.1). Chapter five discusses whether they also occur in the Dutch context. To that end the activities of the suspects are analyzed on the basis of empirical data. This also clarifies how Chinese people are smuggled to (or via) the Netherlands.

After the types of suspects and functions are classified, chapter six looks at how these individuals are connected to each other. The initial hypotheses regarding hierarchical and network-like organizations are studied. Do the smugglers work together for long periods in fixed combinations or in looser cooperatives? Is the operation centrally coordinated from the start in China to the final destination in the West or not?

Chapter seven explores another hypothesis, namely whether heterogeneity can be seen in the criminal activities of the research subjects. Do they, for example, systematically engage in the narcotics trade, extortion or burglary? Do the smugglers exploit smuggled persons? Are there links with forced prostitution or other forms of socio-economic exploitation?

Chapter eight looks at whether there are interactions between the organization of smuggling operations and the actions of the Dutch government in this area. Actual practice, rather than official policy, is the predominant focal point. Additional information from municipal records, interviews and literature is also used to determine whether changes in smuggling organizations are apparent over the long term.

Finally, chapter nine sets out the findings. On the basis of the hypotheses addressed, an assessment is made about the type of cooperation that is most suitable to describe the smuggling of Chinese nationals to or via the Netherlands and whether there are specific implications for theoretical organized crime literature and official policy. This in turn leads to some discussion on the findings and a few policy recommendations.

3 Research methods and data

3.1 INTRODUCTION

The various sources used for this study are some interviews in the Chinese community, court files, interviews with Dutch and foreign police investigators and municipal archives, in that order. This chapter examines in more detail their advantages and disadvantages and the extent to which those sources might lead to valid answers to the research questions.

3.2 SOURCES

Initially, two strategies were available for finding the empirical data needed for this study, i.e. fieldwork or a study of investigation files.

Fieldwork entails interviewing smuggled persons or, better yet, the smugglers themselves. In the Netherlands, Staring successfully applied this method to his study of migration processes involving illegal Turkish nationals (Staring, 2001). Various American researchers used this method in previous studies of Chinese human smuggling (Chin, 1997, 2001; Hood, 1997; Kwong, 1997). Zhang and Chin were even able to interview 87 snakeheads in New York and China (Zhang & Chin, 2002).

The advantages of fieldwork are clear. The researcher obtains first-hand information. If the interviewer is able to work without interpreters, the respondents can have direct contact with the researcher. With a sensitive subject like human smuggling, this can remove at least one potential barrier. However, there are also disadvantages to this method. It is never clear how representative those individuals who want to talk are of the research group. There is also another problem of a different order. Smuggled persons usually have a limited view of the efforts their smugglers have had to make to get them across the border. To answer this question, the researcher needs to talk to the smugglers themselves. However, doing fieldwork among Chinese smugglers is not the same as doing fieldwork among illegal and legal Chinese migrants. Imagine, for instance, that illegal activity takes place in the presence of the researcher, or that the researcher learns of such activity. The chance of this happening is quite considerable. Should the researcher keep silent? Should he report it? All kinds of ethical and integrity problems can thus rear their heads.

Information about human smuggling can also be obtained by means other than field interviews. The public authorities have the required information at their disposal, most of which comes from police investigations. Statements by perpetrators, police observations and conversations recorded on tapped telephone lines can provide information about how smugglers work together. In court cases, public prosecutors have to provide conclusive evidence of smuggling activity. To support their arguments, they submit a number of official records for the judge

to consider. Analyses of court files can therefore produce more insight into the organizational aspects of human smuggling.

Nevertheless, a researcher who employs this method needs to take a number of limitations into account (see for example Bruinsma, 1996a). First, as with field interviews, it is not clear how representative the suspects are of the research group. The smarter smugglers may operate differently from those who get captured and are therefore not included. Secondly, police observations can be incomplete and therefore produce a slanted view. Those on top try to cover their tracks so relationship charts tend to be inaccurate. For example, if one person places a lot of calls to different criminals, and his line is tapped, a more important role may be attributed to him than he actually has (Klerks, 2000: 231). What is more, if a leading player takes good precautionary measures, such as never having telephone conversations, it may be that he will not be mentioned in a criminal case. Thirdly, data are collected for specific purposes, namely for investigation and criminal prosecution, and not for scientific research. Therefore, a lot of data that is relevant to social science research will be absent, such as suspects' backgrounds or motives. Fourthly, investigative research is often linked to a certain place (and time). Although the initial aim of an investigation may be to round up an 'entire organization' or 'entire network', it is an exception rather than the rule for criminal investigations to cross national boundaries, even when it is certain that there are people in other countries who are involved. Most of the information in the case files therefore pertains to activities and persons within the national borders. In addition, the Dutch government takes the position that police information may not be shared with countries that have a doubtful record on human rights. One example of a country that fits that description is the People's Republic of China.

Fieldwork and case file research are also difficult to combine. An interviewer who talks to smugglers and police investigators at the same time, may find that he is distrusted by both parties. In both cases, the researcher will have sensitive information at his disposal about one party that the other party would like to have. For example, a smuggler with whom contact has been established could simultaneously turn up in an ongoing police investigation. If the smuggler were to be arrested, he could suspect the researcher of betraying him. By the same token, the police could suspect the researcher of corruption and providing the smuggler with information.

3.2.1 *Field interviews in the Chinese community*

At the start of the study, a decision was made to hold field interviews. A number of exploratory talks and interviews were therefore held with Chinese respondents (N=12). The researcher is a sinologist, speaks Mandarin Chinese and therefore did not need to use interpreters during the interviews, which had the effect of lowering the barrier level. The interviews quickly quelled the stereotype image of

a closed Chinese community.¹² In a roundabout way, various individuals were found who had recently been smuggled into the country or migrated legally and who were willing to provide information. Although their stories were useful from the perspective of migration, they knew few details about how larger smuggling operations were organized. When family was not involved as smugglers, they did not know what had been set in motion to get them across the border. This made it difficult to answer the basic research question, identifying who is involved in Dutch smuggling of Chinese nationals and how these smugglers work together. That kind of information would be more easily obtained from the smugglers themselves. One Chinese respondent suggested asking around in the Chinese community pretending to want his (non-existent) sister smuggled into the Netherlands. I quickly quenched this suggestion. It would not only be unethical, but because the Dutch police funded my research, such actions would naturally lead to problems. This was explained in detail to interviewees at the beginning of each conversation, but did not seem to have much effect. Taking into account my involvement with the police and all the practical objections ensuing from that, ultimately led to the decision *not* to continue with fieldwork. Nevertheless, the results from the initial discussions that took place with Chinese respondents early in 2002 have been included in the study. These conversations are coded with the letter A, followed by a number indicating a particular individual, e.g. A1, A2 etc. For the record, they do not include interviews with smugglers.

3.2.2 Case files

As the field interviews were of limits, the logical choice was to base the empirical data on closed criminal investigations. Previous scientific studies of organized crime in the Netherlands show that case file analysis can have definite added value (Huisman, et al., 2003; Kleemans et al., 2002; Klerks, 2000; Bovenkerk & Fijnaut, 1996; Van Duyne, 1995). There is also a practical advantage. The Dutch authorities allow scientists relatively open access to police case files. Researchers in other countries do not always have that advantage. Furthermore, there are fewer ethical dilemmas connected with Dutch police data than with police data in other countries. For example, the American plea bargaining strategy, i.e. defendants' pleading guilty and naming accomplices in exchange for a quicker trial and a reduced sentence, does not exist in Dutch human smuggling cases. The extensive use of telephone taps in Dutch investigations also makes for quite objective material. Because most smugglers were too careless in their telephone conversations, a 'bug on the phone line' acted as the next best thing to the 'fly on the wall' perspective.

The case file research was conducted as follows. Because human smuggling has been a punishable offence in the Netherlands only since 1 January 1994, that date was chosen as the start date of the research collection. The end date was 31

12. Time after time, a common background, the ability to speak the same language, an investment of time and a large dose of common sense refute the stereotype that certain population groups or categories are impenetrable. See also (Staring, 2001; Zaitch, 2002).

December 2003. Most of the cases dated later were still under adjudication (in the court of first instance or the court of appeal). Consequently, the outcome of those cases was as yet undecided and applying for permission to view the files and publish the results was potentially problematic.

As the definition of human smuggling used in this study is based on Article 197a of the Dutch Penal Code, the Board of Procurators General was asked to provide a list of *all* registered cases in the Netherlands pertaining to this article. The list was available from OM-data, the national database of the Public Prosecutions Department. OM-data contains all criminal proceedings in the Netherlands registered by i.e. public prosecutor's office number, public prosecutors office, year of birth, country of birth, article, sentence and settlement in the court of first instance. The substantive facts of the cases are not recorded in the database and must be read at the relevant office of the public prosecutor.

In order to be thorough, information on several types of offences was retrieved from OM-data, namely (of course) the offence described in Article 197a (human smuggling), but also the offences described in Articles 197b (profits from illegal labor), 197c (professional or habitual illegal labor) and 197d (corruption by civil servants in connection with 197b or 197c). Article 197 (undesirable alien) was also used initially, because the files on Chinese illegal aliens who have been declared undesirable might have contained background information about their methods of entry and the circumstances in which they lived. However, after perusing several files of this nature (N=14), it became clear that they contained no concrete information about human smuggling. The selection criterion 'undesirable alien' was therefore eliminated. In addition to Articles 197a, b, c and d, the 'human trafficking article', 250a (and its predecessor 250ter), were also included, for the reason explained in section 2.3. Whether smuggled Chinese nationals end up being involved in prostitution (commonly known as human trafficking) or not (human smuggling) is no important distinction for the purposes of this study. In both cases, the individuals involved will most likely have been brought into the Netherlands unlawfully and the focus of our attention is on how this came about. A wide net was therefore cast to obtain the best possible selection.

A further query was made on the basis of country of birth from the data obtained from OM-data regarding the period between 1 January 1994 and 1 January 2004. Since the study is about the smuggling of Chinese, the most obvious nationalities were People's Republic of China, Republic of China (Taiwan), Hong Kong and Macao. However, only four Chinese were prosecuted under Article 197a between 1994 and 1996. They were all discovered at Schiphol Airport in 1995. Only from 1996 onward, more and more Chinese persons were prosecuted for human smuggling in different parts of the country. One reason is that the human smuggling provision in Dutch law was tightened in 1996. The maximum prison sentence was raised from one year to eight years. Consequently, investigative agencies were allowed more investigative powers and thereby willing to invest more time in the criminal prosecution of human smuggling cases. Subsequently, dozens of criminal cases came to trial. To avoid distorting the results, the start date of the study was shifted from 1 January 1994 to 1 January 1996. The

period covered by this research project therefore runs from 1 January 1996 to 31 December 2003, eight consecutive years in total.

In that eight-year period there were over one hundred Chinese suspects in OM-data. Further study of their cases reveals that they cooperated with suspects of other nationalities. The data concerning these individuals were therefore also added, resulting in several Dutch, Yugoslav, British and Turkish suspects being included in the selection. The analysis of the case files also showed that many of the smugglers from Singapore, Vietnam and Malaysia have an ethnic Chinese background. All the cases of human smuggling involving these four nationalities were therefore filtered out of the OM-data information and added to the list of requested files in an attempt to limit the chance of potentially relevant files being missed. Furthermore, a separate list was requested from the Office of Migration Crime (*Bureau Migratie Criminaliteit* – BMC) of the Royal Marechaussee of all cases involving smugglers of Chinese migrants.¹³ However, due to computer limitations, only information concerning the period from 1 January 2000 to 31 December 2003 could be obtained. Seven cases were found with only a German or a Czech suspect that would otherwise have been missed. Finally, information was also obtained from newspaper articles describing incidents or reports of court proceedings concerning Chinese human smuggling. This produced two additional cases. One was a murder case involving a charge of human smuggling, but which had not been registered as such in OM-data due to an entry error. The other case involved an alleged corruption scandal involving only Dutch suspects. The OM-data information was requested and revised most recently on 1 November 2004.

Although both human smuggling and human trafficking were initially selected, the examination of the files revealed that a correction was necessary. Despite clear references in the international literature and Dutch press about human trafficking and sexual abuse of minor and adult Chinese illegal migrants, the OM-data paints another picture. Only three individuals from the research group were charged with human trafficking (as well as human smuggling) and all three were acquitted. Furthermore, closer examination of the case files revealed that only one person had anything to do with Chinese prostitution. The other two individuals were a Vietnamese and a Malaysian man who were involved in the alleged trafficking of Romanian prostitutes or Malaysian and Eastern European women, respectively. These two men had nothing to do with Chinese people and were therefore removed from the research group. This study therefore effectively addresses human smuggling, and not human trafficking.

The total number of cases studied in which there was a possible link to the smuggling of Chinese people was 106. These cases were handled by various public prosecutors around the country. During 2003 and 2004, the court hearings in

13. In the Netherlands the Royal Marechaussee (*Koninklijke Marechaussee* - KMAR) is comparable to the French *Gendarmerie*, the Italian *Carabinieri*, the German *Bundesgrenzschutz* or the Spanish *Guardia Civil*. These types of organizations are a kind of police force with military characteristics (military police). Because of changing priorities in the post-Cold War period and their military structure and discipline, it is argued that they are ideally suited to combat transnational organized crime, like human smuggling. See also (Lutterbeck, 2004).

three cases (involving a total of 15 suspects) were also attended. Requests to view files were submitted to the public prosecutor's offices in 's-Hertogenbosch, Breda, Roermond, Arnhem, Zutphen, Zwolle, Almelo, 's-Gravenhage, Rotterdam, Amsterdam, Haarlem, Utrecht and Assen. An important criterion for consent was that the researcher guaranteed anonymity in the publication of the research. It should not be possible to determine the identity of the individuals in the files. Therefore neither the names of defendants nor the case names used by the investigating officers are mentioned in this study. Instead the cases are designated with the word 'case', followed by a number, for example 'case 5'. The case numbers are randomly chosen.

After obtaining the consent of the Board of Procurators General, the case files were analyzed at the relevant public prosecutor's offices in 2004 and early 2005. Upon further study, a few of the cases were found to bear no relation to Chinese human smuggling and were therefore omitted from further analysis. Apart from the aforementioned cases of (alleged) human trafficking of Eastern European and Malaysian prostitutes (cases 88 and 89), examples of other cases include a marriage of convenience between Vietnamese nationals (case 91) and the smuggling of Tamils by persons from Singapore (cases 54 and 67). In total, the final research database comprised 88 investigation cases in which 178 defendants were brought to trial. However, a number of defendants are counted twice in this figure. Four men were each tried twice in different years. One woman was even tried three times in three different years. This brings the total number of unique defendants to 172. Of these 172 persons, five were not found in the records because the case files were missing or empty (cases 10, 34, 35, 37 and 66). These cases probably involved minor incidents, considering the lack of other suspects, the minor sentences and the decisions not to prosecute. These five individuals are registered with three different public prosecutor's offices in various years. Two other cases were still in appeal, and as a result one public prosecutor's office would not allow inspection of the file (case 99), and the other permitted only limited inspection (case 98).

Although the cases were chosen on the basis of the legal definition of human smuggling, this study gives equal weight to those found guilty, dismissed or acquitted. Critics might argue that this would result in a faulty sample. Only those found guilty of human smuggling offences should be studied. But this study is not concerned with the application or an interpretation of the law, but in smuggling methods, interaction between smugglers or in other words, the organization of human smuggling in the Netherlands. Somebody could be found not guilty because underlying evidence had been judged as inadmissible. That does not mean he was not involved. In other words, there is no reason for this study to dismiss information from such case files.¹⁴

A checklist was drawn up to guide the process of analyzing the case files (see appendix one). This list was primarily based on the checklist used by the Research and Documentation Center of the Dutch Ministry of Justice (WODC) to examine closed investigations into organized crime for the "organized crime

14. As a matter of fact, analysis of the court files show that *all* defendants in the sample were somehow or other involved in human smuggling.

monitor” series and in other criminological research (Bruinsma, 1999; Kleemans et al., 2002; Kleemans et al., 1998). The WODC checklist is based in turn on the criminological research of the Parliamentary Enquiry Committee on Police Investigation (*Parlementaire Enquêtecommissie Opsporingsmethoden*). The Checklist was tested by means of a pilot study of four small to medium-scale human smuggling investigations (including two non-Chinese cases selected randomly). It was then altered somewhat to adapt it specifically to human smuggling rather than a broader spectrum of organized crime.

The case files were of varying sizes and contained different kinds of investigative data. Some were very extensive and contained a large number of tapped conversations, police observations and interviews with suspects, witnesses and smuggled persons. These case files consisted of dozens of binders. These are the so-called ‘large-scale investigations’ that involved months of investigative work. At the other side of the spectrum are files that contain less than a hundred pages. These are cases in which an individual smuggler was caught by coincidence during a border control.

The cases vary not only in size, but also in quality. Some cases were recorded in great detail. This is done primarily in the bigger cases. Because of the amount of time allowed for hearing the suspects in major cases some of the statements are very detailed. The suspects are interviewed several times (e.g. 16 times in a matter of weeks). Each time their statements are compared and crosschecked. Searches of premises also produce incriminating evidence. A suspect in one large-scale investigation had kept a diary. It described his background in China, his arrival in the Netherlands and his later involvement in smuggling. The diary was fully translated and included in the case documents. By contrast, the more minor cases are likely severely hampered by pressure of time. Everything has to be dealt with quickly, because the next case is waiting in the wings. Suspects are therefore rarely heard more than once, evidence of involvement by others is not investigated and little contact is made with other agencies. Nevertheless, such cases should not be underestimated. Various suspects wanted to come clean and volunteered information about their actions. In addition, these minor cases sometimes produce unexpected findings. During body searches some smugglers are found to be carrying their expense statements or travel timetables. This is unique material.

Wiretaps were used in all the investigations except the *in flagrante delicto* cases. The extent of listening in and the amount of time spent listening in on conversations varied according to the size of the investigation. This produced a great deal of usable material for this study. Although not every conversation was transcribed verbatim, most of those that were clearly about human smuggling were.

Finally, it should be pointed out that the information in the files concerns the smugglers, and not the background of smuggled persons. Due to the use of the case file method, there is little information about the reasons why people arranged to be smuggled into the Netherlands and their socio-economic backgrounds. This made it difficult to study the social relationship, if there is one, between the smuggler and the smuggled person. If the smuggled persons filed applications for asylum those files could potentially contain this type of informa-

tion. However, a conscious decision was made *not* to use the related Immigration and Naturalization Service (*Immigratie en Naturalisatie Dienst* – IND) interviews (which contain all kinds of information about the asylum seeker's history). The reason is simple. These interviews cannot be used to generate reliable background information. Generally speaking, the registered statements and data, primarily those concerning smuggling and smuggling organizations, are highly dubious. Their accounts are too general, uniform, lacking in detail or simply implausible. The lack of information about smuggling is not surprising in itself, because the application is ultimately an application for asylum. The aim of the interview is to determine the reason for the asylum request, not the persons who helped the individual reach the Netherlands. It should also not be forgotten that it could be to the asylum seeker's advantage to say he used the services of a smuggler because it can make his story more plausible. Would the refugee not have to make use of smugglers to obtain legal documents and arrange the journey due to the hostility of the authorities in the country of origin towards the refugee (Brink & Hildebrand, 1996: 89)? When an asylum seeker is able to apply for and acquire a passport in the country of origin, this may give the appearance that the persecution is not so serious (Sopf, 2002). Furthermore, by admitting to entering the Netherlands with a smuggler an asylum seeker can avoid difficult questions or expulsion. In account after account, the asylum seeker does not know which countries he or she traveled through during the journey because everything was arranged by the smuggler. Consequently, it is impossible to check the account of the journey and a Dublin claim cannot be submitted. Under the Dublin claim, an illegal person asking asylum in the Netherlands may be returned to other European countries when he traveled through such a country without applying for asylum over there. Under the Act on Undocumented Persons of 1 February 1999, an application for asylum may also be rejected if the applicant cannot produce travel documents. An exception is made if the applicant has a good explanation of why he has no such documents in his possession (any longer). A good argument is that 'a smuggler' confiscated them. Moreover, by claiming refugee status a person can avoid causing trouble for family members already living here who helped him enter the country (Van Wijk, 2003).

3.2.3 Interviews with investigators

In addition to the case file analysis, interviews were conducted with several Dutch government officials (N=22) working on human smuggling. The interviewees were government officials from the former Human smuggling Information and Analysis Center (*Informatie- en Analysecentrum Mensensmokkel* – IAM), the former Human Trafficking Information Unit (*Informatie Eenheid Mensenhandel* – IEM), the Human smuggling Unit (*Unit Mensensmokkel* - UMS), the former Synthetic Drugs Unit (*Unit Synthetische Drugs* – USD), various team leaders of closed investigations into Chinese human smuggling, staff of the Aliens Police, detectives from the Criminal Intelligence Unit (*Criminele Inlichtingen Eenheid* – CIE) with contacts in the Chinese field and a civil servant from the Ministry of Foreign

Affairs in China. Interviews were also held with foreign police officials from the UK and Germany who worked closely with the Dutch authorities in past human smuggling investigations. Two police officials working for the Illegal Immigration Group under the Serious Crime Department of Europol were also interviewed. In addition, several retired investigators were interviewed to get a better picture of the situation in the 1960s, 70s and 80s.

The civil servants interviewed are designated with the letter B, followed by a number, e.g. B2, B16 etc. The interviews were based to a certain extent on the focal points in section 2.3. Additionally, the interviewees who were involved in relevant investigations were asked about these cases as well.

General background knowledge on Asian crime in the Netherlands was obtained from my earlier work and contact with members of the Southeast Asia team of the criminal investigation service of Rotterdam-Rijnmond from 1999 to 2001. This police team, which has since been disbanded, was established in 1998 for the specific purpose of mapping Southeast Asian crime in the Netherlands. It emerged that most of the criminality involved ethnic Chinese people. The subjects that repeatedly came up were drugs, extortion, burglary, credit card fraud, underground banking, murder and, of course, human smuggling. Human smuggling was considered the connecting thread in numerous crimes in the Chinese community (Bureau Evaluatie, 2000: 21).

3.2.4 *Municipal archives*

The 'Case files' section states that the entry into force of the 'human smuggling article' (Art. 197a of the Dutch Penal Code) was an important point in 1994 for the delineation of the empirical material. Since then a stricter approach has been taken to human smuggling, partly as a result of the article being toughened up significantly in 1996. Before 1994, however, there was no penal framework. The primary source material therefore deals with a fairly recent period. Block remarks that "much of the social scientific literature dealing with organized crime suffers from a particular kind of a-historicism that critically weakens arguments about the nature of organized crime" (Block, 1994: ix). There is a potential risk of event-based historiography (Braudel, 1979). The here and now seems to predominate; attention is focused exclusively on events that occur within a short period of time. For example, conventional knowledge has it that Chinese organized crime is a relatively recent development in the United States. However, by researching various documents in New York City area archives and libraries, McIllwain was able to show that Chinese organized crime was already well entrenched in 19th century New York (McIllwain, 2004).

In order to understand human smuggling in a longer time span, not only were retired investigators interviewed about their past experiences but information was also gleaned from municipal archives. Consent had to be obtained from a local privacy officer to view the information. The cities of Rotterdam, The Hague and Amsterdam, in particular, have historically been home to a relatively large concentration of Chinese people. The municipal archives still contain a few

old police files related to the old Chinese community. Those files were searched specifically for information on human smuggling and illegal migration. The municipal archives concerned go back to the establishment of the Chinese community in the Netherlands in 1911. A great deal of information is available in Rotterdam and Amsterdam regarding the period before the Second World War. In The Hague there is more data on the 1960s and 1970s. The information comprises, for example, reports drafted by investigators of the Aliens Police specializing in the Chinese community, or whistleblower letters from within the Chinese community. There is also correspondence between chief constables and Ministries regarding the 'Chinese problem'. These municipal records provided some information that was useful for answering the research question regarding the connections between the investigation and the organization of human smuggling.

3.3 CONCLUSION

Information from field interviews, case file study, interviews with investigators and historical municipal archives will be used to try to answer the research questions. Each of the sources has advantages and limitations. When it became clear that an extensive field interview procedure was not feasible for this study, a case file analysis was chosen. This produced some unique material, such as wire taps and police observations. The disadvantage, however, is that police data is inherently biased and can cause distortion (but then again, so are field interviews). Anyone involved in smuggling is automatically regarded as a criminal. The underlying motives are often disregarded. Furthermore, the use of Dutch court files generates specific limitations. First, the criminal cases focus on what happens *in the Netherlands*, and not what happens abroad. In some cases, the Dutch police shared information with neighboring countries. Tips were given to foreign investigative agencies about persons in other countries who had been identified by means of wiretaps. Often the Dutch court files contain little or no information about the subsequent findings of foreign investigations of such suspects. That information would have to be obtained from the files in the relevant countries. This was not feasible for this study, due to a lack of time. A few foreign investigators were interviewed in an attempt to fill this gap.

Second, the court files contain only limited information about the relationship between smuggler and smuggled persons. As the investigation focuses on perpetrators and their crimes, other information is irrelevant for the prosecution. Because migrants are not seen as criminals, there is not a lot of information about them available.

Third, it is theoretically possible that successful smugglers (i.e. those who have not been caught) differ from those in OM-data. Successful smugglers may operate in a completely different way from those who get arrested. The empirical data might therefore be distorted.

Nevertheless, the distortion will most likely be limited in practice because the files studied are highly diverse. As will be shown, there is great diversity in the

smuggling routes, legal and illegal channels and group sizes. The choice to use *all* the files that are related to the research topic still results in an extensive picture. For the purposes of this study, the advantages of a file analysis therefore ultimately outweighed the disadvantages. The files contain objective 'hard' data. Police observations and wiretaps serve as reliable indicators of the suspects' smuggling activities. It thus gives a specific view into the world of people smugglers operating in the Netherlands.

4 Case File Analysis

4.1 INTRODUCTION

In this chapter we take a closer look at who the Dutch authorities suspect of smuggling Chinese and what their characteristics are. As stated in the chapter on research methods, most of the empirical data used in this study was extracted from court records. An overview is given below of the number of cases, their relative scope, the year, the location of events, the full charges and the ensuing judgments.

In the second half of this chapter, an overview is also given of the sex, age, nationality, ethnicity, status and criminal record, if any, of the defendants suspected of involvement in Chinese human smuggling.

4.2 CASE FILES

The research period covers eight consecutive years, from 1 January 1996 to 31 December 2003. For this period, 88 cases of Chinese human smuggling were found and examined. As stated in the chapter on research methods and data, it is thought this provides the best comprehensive representation of all court cases relating to Chinese human smuggling in the Netherlands during that period. These 88 cases can be categorized by year of registration at a public prosecutor's office or by perpetration date. However, an overview based on perpetration date is less practical because it can lead to confusion. For example, a single investigation can involve various perpetration dates. In case 98, the earliest perpetration dates of the different defendants vary from 1997 to 2002. Yet the defendants, and thus the case, were not registered at the Public Prosecutor's Office until 2002. At that time, the investigating authorities discovered that the defendants were involved in human smuggling and traced their activities back to the first instance of involvement according to the available evidence. However, this method of back-tracking is somewhat random and is somewhat based on best guesses.

Categorization by year of registration with a public prosecutor's office is less ambiguous. The year of registration is the same as the year in which the defendant first became the subject of an investigation. In other words, it is certain that he was suspected of human smuggling from that year. The only distortion that can occur is when an investigation involves several defendants who are not registered in the same year. This happens when the police investigation goes on to turn up new suspects, who are then also registered with the Public Prosecution Service. For example, an investigation of three suspects was launched at the end of 1997, but two new suspects were added in early 1998 (case 6). In such instances, the case is dated to the earliest year of registration of a suspect, which in this case was 1997. Table 1 gives the number of cases by year of registration.

Table 1 Year of registration

Year	Number of cases
1996	12
1997	10
1998	6
1999	10
2000	11
2001	8
2002	19
2003	12
Total	88

Source: OM-data

The courts handled an average of 11 cases a year during the research period. There were minor fluctuations from year to year. No reason for the fluctuations was identified during the research, which is not surprising considering the small numbers of cases involved. In 2001, one year after the failed Dover transport in which 58 Chinese people perished, there was a small dip in the number of Chinese human smuggling cases. The following year (2002) saw the highest number of cases (N=19) in the entire research period. However, the figure dropped again to just 12 cases in 2003.

Nevertheless, these figures should not be taken to mean that an average of 11 smuggling organizations are 'rounded up' each year. Simply counting the number of cases does not provide a true picture of the number of smuggling organizations or the scope of the crime (Kleemans et al., 1998: 22). Various cases may have been connected. Some major investigations are broken down into smaller cases in accordance with a specific investigation strategy. Furthermore, information from one case might provide sufficient evidence to start a new case. Two cases are then in fact built in conjunction with each another. Moreover, there are major differences between cases in terms of quantity (and quality).

4.2.1 Number of defendants

In the entire spectrum of cases, some could be considered small-scale because the file consists of no more than a few hundred pages and the number of suspects is limited to one or two. This type of case commonly results from suspects being caught in the act. There are various reasons for this. For example, airline and travel agency staff sometimes alert the police when they have suspicions. Smugglers also get caught during routine passport or vehicle checks at border crossings. Although it is often clear that several individuals had to have been involved in the operation, only the smugglers caught in the act are arrested and prosecuted in such cases. For example, at Schiphol Airport the Marechaussee observed a Chinese man giving a passport to another person. The passport turned out to have been doctored with a photograph of the recipient, a Chinese

illegal alien. The migrant claimed he had no idea how his photograph came to be in the passport, but that he had given six passport photographs to a certain smuggler in China (case 48). Since the Dutch authorities are prohibited from exchanging information with the Chinese authorities, the investigators were unable to pursue the case. It is sometimes clear that other smugglers have been involved, not only in China, but also en route. Some smugglers manage to escape the long arm of the law even closer to home. Lack of resources (funds and manpower), time and connecting evidence or simply other priorities make it impossible to investigate a case exhaustively. They are therefore not prosecuted in the Netherlands either.

At the other end of the spectrum are the cases on which a great deal of resources, manpower and investigation time is spent. In contrast to small-scale cases, these investigations are carried out by multidisciplinary teams. The police and the Marechaussee often work together for between several months and more than a year on such cases. These investigations result in case files containing thousands of pages presenting dozens of individuals (suspects, involved parties and witnesses). Investigations of this nature can have various triggers. Sometimes police information from abroad provides the impetus for starting a major investigation (case 9). In another case, a double murder triggered an extensive investigation (case 23). But even in major cases, not all those involved are bound to be prosecuted. For example, in a case in which the investigation team originally had 20 suspects, only nine people ended up in court (case 98). The Public Prosecutor decided not to prosecute those who had played only a minor role in the smuggling or against whom there was little evidence. The table below gives the number of defendants per year.

Table 2 Number of defendants by year and case

Number of defendants per case	Year of perpetration								Total number of defendants
	1996	1997	1998	1999	2000	2001	2002	2003	
X1	9	6	3	7	5	7	11	6	54 people
X2	2	2	2	3	3	1	6	2	42 people
X3	1						1	1	9 people
X4			1					1	8 people
X5		1							5 people
X6					1			1	12 people
X7		1							7 people
X8									0
X9					1			1	18 people
X10							1		10 people
X11									0
X12									0
X13					1				13 people
Total	16	22	11	13	39	9	36	32	178 people

Source: OM-data

Generally speaking, the more defendants prosecuted in a single case, the more extensive the investigation. The seven cases involving six or more defendants accounted for 60 defendants in total, which is nearly the same number as the 58 cases in which just one defendant was tried. The remaining cases fall between these two extremes.

4.2.2 *Distribution of cases*

There are also major differences between the 19 public prosecutor's offices in the Netherlands in terms of numbers of cases and numbers of defendants. On the whole, the public prosecutor's office in the region where the investigation is carried out handles the case. This gives an indication in which regions in the Netherlands the smuggling of Chinese people is discovered and investigated. Table 3 illustrates the situation as it applies to investigations of Chinese human smuggling.

Table 3 Number of cases and defendants by Public Prosecutor's Office

Public Prosecutor's Office	Total number of cases	Total number of defendants
's-Hertogenbosch	4	15
Breda	3	4
Maastricht	-	-
Roermond	3	3
Arnhem	2	6
Zutphen	9	14
Zwolle	1	4
Almelo	7	9
The Hague	3	13
Rotterdam	11	51
Dordrecht	-	-
Middelburg	-	-
Amsterdam	-	-
Alkmaar	-	-
Haarlem	41	53
Utrecht	2	4
Leeuwarden	2	2
Groningen	-	-
Assen	-	-
Total	88	178

Source: OM-data

Table 3 shows that the number of cases that a Public Prosecutor's Office handles is not proportional to the number of defendants. For example, the Haarlem office dealt with 41 cases with a total of 53 defendants, while Rotterdam had only eight cases but a total of 51 defendants.

One reason for these differences is the location of the offices and the gravity of the criminal acts investigated. Haarlem handled all the relatively small cases that arise at Schiphol Airport. These are often cases in which the suspect was caught in the act (and often left little time for extensive investigation). The same is true of the offices near the border (Roermond, Almelo, Breda and Zutphen).

The offices in Rotterdam, Den Bosch, The Hague and Arnhem handled the larger cases. It should be mentioned here that the Rotterdam office frequently cooperated with the office in Zwolle on human smuggling investigations, because Zwolle had a special Unit Human Smuggling (UMS) from 1998 to 2003. As its name suggests, the UMS unit was responsible for prosecuting cases of human smuggling. Several joint investigations in the Chinese community in Rotterdam were conducted in cooperation with the Marechaussee, the Rotterdam police and the harbor police. The suspects were registered with the district court of Rotterdam.

Also note that 7 of the 19 Public Prosecutor's Offices in the Netherlands had no Chinese human smuggling cases: Maastricht, Dordrecht, Middelburg, Amsterdam, Alkmaar, Groningen and Assen. It is possible that there were no cases to prosecute if smuggling of Chinese nationals did not take place in these regions. However, there may also be other reasons. For example, Amsterdam is one of the few cities in the Netherlands with a Chinatown (the others are in The Hague and Rotterdam). Yet, not a single case of Chinese human smuggling came before the Amsterdam court during the research period. According to the investigators who were interviewed, this was not because there are no Chinese smugglers in Amsterdam, but because human smuggling is a low priority for the local government (B4, B6).

4.2.3 Indictment and judgment

Obviously the defendants in each case were indicted for human smuggling. However, prosecutors also brought charges for other offences. For the sake of convenience, this research considers human smuggling to be not only violations of Article 197a, which is the working definition of human smuggling used in this research (see section 2.3), but also violations of two related articles, 197a(3) and 197b. Article 197a(3) addresses making a business or habit of human smuggling, or committing the offence of human smuggling in association with others. This article was invoked 16 times. In addition, ten charges of using illegal labor were brought (Article 197b). Remarkably, no one was indicted for making a business or habit out of the use of illegal labor (197c). Nor was anyone prosecuted under Article 197d, which covers violations of Article 197b or 197c in the performance of an office or the practice of a profession.¹⁵

15. Articles 197c and 197d are in fact very rarely applied. Of the more than 1600 suspects of all nationalities registered in OM-data during the research period in connection with human smuggling, Article 197c was invoked only ten times and Article 197d was never applied.

The table below lists all the charges on which the defendants were tried.

Table 4 Offences

General description of offence	Number
Human smuggling	210
Human trafficking	1
Document fraud	54
Membership of a criminal organization	63
Violence	34
Extortion	1
Opium Act	2
Other	17
Total	382

Source: Criminal Records System (JDS)

Only one individual was charged with both human smuggling and human trafficking (Article 250ter). This is a remarkably low figure for a group of offenders that is associated in the general literature and the press with trafficking in women and underage asylum seekers (see also section 7.2.1).

Although the charge of human smuggling under Article 197a was brought in every case, there were differences in the number and type of additional charges. In several cases with just one or two defendants, subsidiary articles of the law relating to fraudulent use of identification documents were invoked. Forty-eight people were charged under Article 231 (falsification) and 8 under Article 225 (forgery/document fraud). Interviews with investigators (B7, B9) revealed that smugglers who purchased forged or falsified documents were sometimes charged with receiving stolen goods (Article 416) as well. Six individuals were charged under this article.

Although charges under the articles relating to document fraud were also brought in the larger cases with more defendants, the difference was that Article 140 (involvement in a criminal organization) was usually invoked as well. The combination of Article 197a and Article 140 was found in 63 times.

In contrast to the cases involving only one or two defendants, the cases with several defendants involved a number of articles of law that are classified under the heading of 'violence' for the purposes of this study. In six cases individuals were charged with possession of firearms (WWM26). Three times unlawful deprivation of liberty (Article 282.1) was charged, and in two of those cases the defendants were also charged with grievous bodily harm (Article 302.1). Remarkably, no less than ten charges of manslaughter, eight murder charges and three charges of involuntary manslaughter were found in the research group. Two additional charges were also levied for the unlawful disposing of a human body.

The list also includes one extortion charge. Again, this is a remarkably low figure for a group of offenders that is associated in the general literature and the press with all kinds of crime (see also section 7.2.2).

Most of the acts classified in the 'other' category involved violations of the Commodities Act or the Foreign Nationals (Employment) Act, i.e. minor offences.

The majority of the cases were ultimately tried for a full bench criminal judge. Table 5 gives an overview of the bodies that ultimately handled the cases.

Table 5 Deciding body¹⁶

Deciding body	Number of offences
Appeal court	65
Full bench criminal division	148
Public prosecutor	64
Police court	39
Not yet settled or NA	66
Total	382

Source: JDS

The data available on final court judgments can be classified in five categories. In cases in which the verdict was 'guilty', the court found the defendants guilty of the charges. Some cases were dismissed by reason of 'technical dismissal', which means that the Public Prosecutions Service decided against prosecution because the case could not be proven, e.g. due to lack of evidence. In some cases, the Public Prosecutions Service was not allowed to prosecute or an act was ultimately found not to be punishable. If a defendant was not prosecuted for a particular offence because his role was insignificant, the period of limitation had lapsed, the offence was insignificant or the circumstances had altered, there was a 'policy-related decision not to prosecute'. If the defendants were 'acquitted', the court ruled that the charges against the defendants had not been proven. The cases in which defendants lodged an appeal and no final judgment had been delivered by the end of the research period are classified as 'verdict not yet known'.

Although the final verdict in 17% of the charges (for 66 offences) was as yet unknown, it can be concluded that a guilty verdict was handed down for slightly more than half (52%) of the offences. Also, all the cases that are pending before the court of appeal had guilty verdicts in the court of first instance. However, with respect to nearly one third (30%) of the charges, the defendant was acquitted or the charges were dismissed due to likely nonconviction or for reasons of policy. This percentage may rise even further as the appeal court verdicts become known. Table 6 summarizes this data.

16. "If the public prosecutor considers the case to be a comparatively minor one, he can prosecute before the police judge, a single judge chamber of the district court. The police court may not impose prison sentences exceeding twelve months. The police court is entitled to refer a case to the full bench criminal division if he is of the opinion that a full bench would be more appropriate" (Tak, 2003: 33, 34).

Table 6 Verdicts

Charges	Guilty verdict	Technical dismissal	Policy-related dismissal	Acquittal	Verdict not yet known	Total
Human smuggling	115	26	21	20	28	210
Human trafficking		1				1
Document fraud	25	6	8	5	10	54
Criminal organization	35	7	5	6	10	63
Violence	16	3		8	7	34
Extortion	1				2	1
Opium Act					9	2
Other	7		1			17
Total	199	43	35	39	66	382

Source: JDS

The sentences are also known for the cases in which a guilty verdict was handed down. Table 7 contains data on the 83 individuals concerned.

Table 7 Sentences

Number of defendants	Number of years	Average number of months	Standard deviation
7 people	>10 years	146.6	20.1
49 people	1-5 years	25.8	12.0
27 people	< 1 year	5.7	2.0

Source: JDS

Seven people in three cases were each given a non-suspended prison sentence of over ten years. These cases were not limited to human smuggling offences, but each and every time also involved murder or involuntary manslaughter. In one case, four people were each sentenced to 12 to 15 years in prison (case 23). In another case, two people were each given 11 years (case 32). The seventh person – who was sentenced to 11 years as well – was also given a non-suspended fine of 45,000 euros.

The sentences in cases not involving lethal violence were considerably shorter. The longest was a non-suspended sentence of five years. The shortest was one month in jail or a mere fine. The rest were in between, with a few minor exceptions.

An additional fine was also imposed in thirteen cases. 45,000 euros was the highest fine and 180 euro the lowest. Fines were imposed for employing an illegal worker in six cases, using false documents in three cases and purely for human smuggling itself in just four cases. However, this is not the complete financial picture. A Public Prosecutor can initiate separate confiscation proceedings to take away the financial gain that a suspect acquired from his crime. These proceedings are procedural unconnected to the criminal case and can take up to

two years longer. The tax authorities can also initiate proceedings to recoup lost revenues (e.g. from illegal labor). However, the results of such proceedings are not registered in OM-data or the Criminal Records System (JDS). For example, in addition to a prosecution under criminal law, one defendant was also the subject of separate confiscation proceedings (case 9). The final judgment was still unknown at the time of writing, but the court of first instance ordered her to pay the state eight million euros. Nevertheless, there is no list of confiscations or tax assessments of all defendants because that data has to be requested separately and approval was not obtained in time.

4.2.4 Number of people smuggled

Because we are dealing with a dark number, it is actually impossible to state how many Chinese nationals are smuggled into the Netherlands each year. Incidentally, this applies not only to Chinese nationals, but also to all other nationalities (Brink & Hildebrand, 1996: 87, 91). Nevertheless, the Parliamentary Inquiry Committee on Police Investigation did make an attempt to come up with a number in 1996 in estimating that a few hundred Chinese nationals are smuggled into the Netherlands each year (Bovenkerk & Fijnaut, 1996: 140).

In order to have at least something to go by, various public authorities assume that two-thirds to 80% of all asylum seekers are smuggled (Buitenhuis, 2000: 9; IAM, 2001a: 62; 2005). The percentage could even be higher for Chinese nationals. Table 8 on page 42 contains statistics regarding the total number of registered asylum applications by people of all nationalities and those submitted by Chinese nationals.¹⁷

If it is true that almost every Chinese asylum seeker was smuggled, there were some 6,700 smuggled Chinese people during the 8 year research period. But table 8 does not necessarily mean that very few were smuggled before 1989, as will be made clear in Chapter 8. Nor do these figures indicate that Chinese human smuggling passed its high point in 2000. It is more likely that changes in the asylum procedure in 2000 make it potentially less attractive to apply then before.

At any rate, the accuracy of an estimate based on asylum applications is very questionable. From criminal investigations it is clear that the Netherlands functions as a transit country for Chinese migrants. Individuals who are smuggled through the Netherlands to Britain may therefore not appear in the asylum statistics. Interviews with investigators revealed applications are also subject to trends (B6, B7). In the late 1990s illegal Chinese nationals who were caught by the authorities (for example, in a failed smuggling operation or as the result of a labor inspectorate investigation) often applied for asylum soon after in an attempt to obtain legal status. However, in later years illegal Chinese who were discovered made less use of the asylum procedure, probably because the asylum regulations

17. Please note that these figures refer to asylum applications, and not the number of people. The actual number of asylum seekers will therefore be slightly lower as individuals may have applied for asylum more than once.

had been tightened. The drop in the number of Chinese asylum applications therefore does not necessarily bear any relation whatsoever to the number of smuggled Chinese. Furthermore, the main objection to this method of estimating is explained in the chapter 3 on research methods and data, namely that it is impossible to verify the claims of asylum seekers who say they used ‘travel agents’ at a given time.

Table 8 Asylum applications

Year	China	Total
1985	3	5,643
1986	2	5,865
1987	5	13,459
1988	6	7,486
1989	120	13,893
1990	643	21,208
1991	1,311	21,615
1992	225	20,346
1993	896	35,399
1994	874	52,576
1995	477	29,258
1996	468	22,857
1997	1,158	34,443
1998	917	45,217
1999	1,246	39,299
2000	1,402	43,895
2001	703	32,579
2002	541	18,667
2003	295	13,402
Total	11,292	477,107

Source: INDIS 31-8-2004

However, the estimation method based on asylum applications cannot be refuted with court files for two reasons. First, the files often contain incomplete information about the number of smuggled people. Second, even if the number of migrants is known, it is impossible to discover which of them applied for asylum simply because the personal data of the smuggled people is not always adequately recorded in the investigation files.

In view of all these objections, it is not possible to give more than a rough estimate as regards the number of migrants smuggled by the defendants in the period between 1996 and 2003. In the cases with just one defendant, the smuggling attempts usually involved small groups of one to five migrants. There were a few notable exceptions, including two cases involving 30 migrants (cases 51 and 101). This raised the average number of migrants per smuggler to five.

Of the 21 investigations involving two defendants, in five cases the defendants reported smuggling 10 or more migrants a year (cases 17, 28, 31, 40 and 60).

The average number of smuggled people in cases in which two defendants were arrested is thereby put at 8 people a year.

When more than two defendants were involved, several smuggling attempts were usually made and therefore several smuggled migrants were discovered. Groups of three to five defendants on average were involved in the smuggling of 10 people a year. Groups of six to eight people on average were involved in the smuggling of 100 people a year. For example, two attempts to smuggle migrants by lorry were discovered in a case involving six defendants. In each attempt, some 20 migrants were smuggled. The defendants confessed to having successfully completed two transports, but they were suspected of even more transports (case 15).

The number of smuggled people is much higher in the remaining groups of nine or more people. In one case involving nine defendants, it was alleged that the group successfully smuggled 16 people a month on average. Moreover, according to the Public Prosecutor, they were active for at least three years (case 9). The fact that large numbers of illegal migrants were actually found in these cases proves that these were not merely estimates and derivations. For instance, video observation of two safe houses in a case involving 13 defendants (case 29) revealed that an average of 44 Chinese nationals was housed on the premises each month. At a certain point the police entered a safe house and arrested 45 illegal aliens. In another case involving nine defendants, 50 Chinese illegal aliens were picked up in safe houses (case 98). A liberal estimate is therefore that groups of nine or more suspects transported an average of 300 migrants a year. The total number of people smuggled by the defendants can therefore be formulated as follows.

Table 9 Calculation of the number of smuggled people

Size of group	Number of groups	X number of smuggled people per year	Total number of smuggled people	Percentage	Number of smuggled people per smuggler
1 person	54 individuals	X 5	270	14%	5
2 people	21 groups	X 8	168	8%	4
3-5 people	6 groups	X 10	60	3%	2.5
6-8 people	3 groups	X 100	300	15%	14
9-13 people	4 groups	X 300	1200	60%	27
			1998	100%	

Source: OM-data

According to this calculation method, the smugglers in the selection therefore smuggled approximately 250 migrants a year over an 8 year period. This figure is probably a minimum, because the larger smuggling groups are known to have been in operation for more than a year. The same is true of an unknown number of individual smugglers. Several admitted that they had been involved in earlier smuggling attempts that were not discovered. It should also be noted that it is not known whether some smuggled people have been counted more than once (i.e.

whether the same migrant was caught more than once). As stated above, there is insufficient information about the intercepted migrants to check this. These numbers should therefore be seen as nothing more than cautious 'guesstimates'. Nevertheless, some conclusions from table 9 can be drawn.

Although the large smuggling groups are responsible for a very large share of the smuggling of migrants, the small-scale cases are also important. Together the individuals and smuggling groups consisting of two people were responsible for 22% of the total number of migrants.

There is another noticeable piece of information in table 9. Considering the average number of migrants per smuggler, it appears that individual smugglers are more economical than smuggling groups of three to five people. The number of migrants per smuggler only increases significantly when the smuggling groups consist of more than six people. It should be noted, though, that an unknown number of smugglers that are deemed to be individuals or small groups in this research could belong to larger smuggling groups. Furthermore, the group size should not be considered an entirely pure demarcation. As stated above in the 'case files' section, some suspects are not prosecuted. The Public Prosecutor selects those who are most involved. The files show that the higher the number of defendants, the greater the chance is that other involved parties will not be prosecuted. That means, for example, that a group of 13 defendants could actually come from an original group of 20 suspects who were involved.

Finally, the total number of smuggled migrants says nothing about the number of Chinese nationals who are smuggled *to the Netherlands*. The figure merely reflects the number of Chinese migrants with whom the defendants in the Netherlands were involved. It must be taken into account that in many cases the smugglers were trying to smuggle the migrants *out* of the Netherlands. The vast majority of intercepted migrants at Schiphol Airport were about to fly to another destination. In nearly every case involving three or more defendants, they were involved in arranging travel to Britain. The Dutch authorities became aware of these defendants due to a failed crossing and subsequently started an investigation. Even in those cases in which migrants were discovered hidden in a lorry near the German-Dutch border it cannot simply be assumed that the Netherlands was the final destination. The migrants might just as well have been en route to Britain.

4.3 INDIVIDUAL CHARACTERISTICS OF THE DEFENDANTS

This section looks in more detail at the type of people involved in the smuggling of Chinese nationals to and through the Netherlands. The specific characteristics examined are sex, age, country and city of birth, ethnicity, profession, residence status and criminal record.

4.3.1 Sex

Previous research by Zhang and Chin showed that women are actively involved in Chinese human smuggling. Of the 90 snakeheads they interviewed in the course of their field study, 16 (18%) were women (Zhang & Chin, 2002: 746).

The research group shows that there are women smugglers in the Netherlands too. Table 10 shows the male-female ratio in absolute numbers per year for Chinese human smuggling defendants. By way of comparison, an overview is given of the ratio of men to women amongst everyone prosecuted for involvement in human smuggling activities whatever their nationality (including Chinese nationals).

Table 10 Sex

Perpetration year	Sex of persons in research group			Sex of all defendants		
	M	F	Total	M	F	Total
1996	14	2	16	129	33	162
1997	20	2	22	124	70	194
1998	8	3	11	188	42	230
1999	10	3	13	176	20	196
2000	35	4	39	261	39	300
2001	6	3	9	219	28	247
2002	32	4	36	173	25	198
2003	29	3	32	121	19	140
Total	154	24	178	1391	276	1667

Source: OM-data

Of the 178 times that a person was suspected of involvement in human smuggling, 86% were men and 14% were women. Compared with the total number of defendants of all nationalities who appeared in court in the same period, this percentage is therefore slightly under the average of 17%. The actual percentage of women involved in Chinese smuggling cases is slightly lower if the calculation is based on the individual rather than on the year of perpetration because one woman appeared three times (four men appeared twice). The total number of unique women was therefore 22 and the total number of unique men 151, which gives a percentage of 12.8%.

4.3.2 Nationality and ethnicity

The following table shows the country of birth of all defendants per year.

Table 11 Country of birth

Country of birth	Perpetration year								Total
	1996	1997	1998	1999	2000	2001	2002	2003	
China	10	16	6	8	12	6	30	20	108
The Netherlands		2	1		13			4	20
Hong Kong	4	1		1	1		3	2	12
Vietnam	1	2	1	2	2	2	1	1	12
Singapore		1		2	1	1			5
Czech Republic					2		3		5
Turkey					3				3
Germany							2	1	3
Great Britain			2						2
Malaysia					2				2
Taiwan	1				1				2
Indonesia					1				1
Japan							1		1
Yugoslavia					1				1
Korea			1						1
Total number of defendants	16	22	11	13	39	9	40	28	178

Source: OM-data

As expected, Chinese defendants were the largest group. They were also the only category in which people were counted more than once. Of the 108 times that a Chinese national was arrested, four men were arrested twice and one woman was even arrested three times. Therefore, the total number of unique perpetrators born in the People's Republic of China was 102.

There is insufficient data to indicate accurately which Chinese province or city they came from. Some files merely state 'China' under place of birth. The following can be derived from the files that contain more details. Most Chinese defendants originated from Zhejiang Province (N=43). Wenzhou and Rui'an are mentioned specifically. Eighteen people came from Fujian Province. Guangdong was next with seven and then Shanghai with six. However, no place of birth is known for the remaining Chinese defendants. It is therefore possible that more defendants originated from e.g. Fujian than can be determined from this data.

It is striking that there were also defendants of many other nationalities in addition to those of Chinese nationality. The largest category consisted of people born in the Netherlands (N=20). The data for the year 2000 indicates why there were so many Dutch nationals: the files show that in that year two large-scale

investigations of human smugglers of Dutch nationality were concluded (cases 30 and 32), resulting in an over-representation of Dutch defendants in 2000.

Vietnam and Hong Kong accounted for 12 defendants each, spread fairly evenly over the years. The number of people from Hong Kong was actually quite low relative to the size of the legal community of Hong Kong nationals in the Netherlands. E.g. in 2002 a total of 18,000 people were determined to come (or have at least one parent) from Hong Kong (CBS, 2003: 33).¹⁸ In comparison, the size of the community from the People's Republic of China was determined to be twice as large in 2002 at 36,000 people (CBS, 2003: 33). The Vietnamese (N=12) were actually over-represented relative to the size of the ethnic Chinese Vietnamese population group in the Netherlands, which was generally estimated at fewer than 1000 (Harmsen, 1998). However, the Chinese-Vietnamese Refugee Association claimed that there were 5,000 in the Netherlands (ACB/LFCON, 1994: 20). Singapore (N=5), Malaysia (N=2) and Taiwan (N=2) were also over-represented. According to Statistics Netherlands (*Centraal Bureau voor Statistiek* - CBS) estimates, the ethnic Chinese Singaporean population group numbered 3,000, the Malaysian group 1,000 and the Taiwanese group 1,000 (Harmsen, 1998).

It is striking that the group of Chinese who originated from Surinam and are also part of the Sino-Dutch community are *not* represented in the list at all. The CBS estimated the size of this group in the Netherlands to be approximately 5,000 (Harmsen, 1998). Yet, there was not a single case involving a Chinese defendant from Surinam.

Other nationalities are encountered sporadically. From interviews with investigators, it can be concluded that Poles, Germans and Czechs were actually *under-represented*. Nearly every year, people of these nationalities would be caught in the act of smuggling at the border, but they were not always brought to trial. There were two reasons for this. The first reason was that it is difficult to prove the profit motive.¹⁹ Rather than prosecuting these cases, the Public Prosecutor simply sent the suspects back to their country of origin (B4, B7). The second reason was that some suspects were handed over directly to the neighboring country. For example, possession of a German train ticket or a Belgian sales receipt could be sufficient reason to justify transferring the case to the German or Belgian authorities. Consequently, these cases never reached the Dutch courts.

Furthermore, the files contain evidence that nationalities not listed in table 11 were also involved in the smuggling of Chinese nationals into the Netherlands. Chinese smugglers and local residents cooperated with each other outside the Netherlands (in transit countries). For example, in their statements to Dutch police intercepted illegal migrants give account of a 'foreign devil' (anyone who is of a different nationality from a Chinese perspective) guiding them over the Czech border (case 18). In Belgium, Albanians smuggled Chinese people to Britain (case 29). Because these incidents took place abroad, the people involved never appeared in the Dutch courts.

18. A person who has one parent born abroad is deemed to be of that nationality (CBS, 2003).

19. The profit motive in the case of illegal border crossings is omitted in the new human smuggling provision dating from 2005. It is therefore possible that in the future more Poles, Germans and Czechs will be prosecuted for human smuggling offences in the Dutch courts.

Finally, OM-data states nationality only and not ethnicity. It is therefore possible that there were more defendants with a Chinese background than table 11 shows. The court files corroborate this. For example, there are tapped telephone conversations in which the defendants from Malaysia communicated in a particular Chinese dialect. In addition, suspects are known to have told each other that some particular person is actually ethnic Chinese. Such evidence enabled the authorities to establish that two Dutch citizens, nine Vietnamese, one Singaporean and two persons from Malaysia were ethnic Chinese. Conversely, one individual from Singapore turned out to be a ethnic Dutchman. One other person born in Indonesia, turned out to be half Dutch and half Asian. He was presumed not to have any roots in Chinese culture. He spoke Dutch or English and no Chinese dialects. This meant that the ratio of ethnic Chinese to other Asians to Westerners was 128:12:32. Incidentally, al 22 female defendants were ethnic Chinese: there were nineteen women from China, two from Singapore and one from Vietnam.

4.3.3 *Place of residence and residence status*

Despite the fact that 172 different smugglers were arrested in the Netherlands, it is not necessarily a given that the smuggling operation had organizational links with the Netherlands. For example, some smugglers arrive at Schiphol Airport on a direct flight from China. At Schiphol they attempt to board a flight to London but are intercepted by Dutch security at the gate. In such cases, because the Netherlands is merely the country of transfer, there is not necessarily a link to a smuggling organization in the Netherlands. However, if the defendants' country of residence is the Netherlands, chances are there is a link. Table 12 on page 49 lists the various countries of residence encountered in the files.

This shows that some 70% of the defendants gave the Netherlands as their country of residence. However, this also means that 30% indicated another country (or remained unknown). The analysis of the case files also show that some of the defendants in the latter category genuinely had no connection with Dutch smuggling organizations. For example, two Vietnamese Chinese transporters lived in England. They were intercepted in the port of Rotterdam when they tried to take the ferry to England in a minivan (case 31). During a routine border check the officials noticed that the back doors of the van could not be opened, which raised their suspicions. When they tried to break the lock, the doors flew open and 23 illegal Chinese jumped out. In the investigation that followed, it was discovered that in England the Vietnamese had agreed with some Chinese people to picking up several Chinese nationals in France. Because the Vietnamese thought checks at the Channel Tunnel in France would be stringent, they decided to try crossing via Rotterdam. They had absolutely no connections with smugglers in the Netherlands. Another case involved a Vietnamese smuggler residing in the United States. He accompanied a Chinese illegal alien on a flight to the United States.

Table 12 Country of residence

Country of residence	Total
The Netherlands	121
Germany	9
Italy	5
Czech Republic	5
Hong Kong	4
Hungary	2
Great Britain	2
Netherlands Antilles	2
United States	2
Spain	4
Taiwan	1
Singapore	1
People's Republic of China	1
France	1
Country unknown	12
Total	172

Source: OM-data

Both individuals came from a direct flight from China and attempted to transfer at Schiphol Airport (case 33). In this case, too, no link with smugglers in the Netherlands was found. Four other Vietnamese smugglers who brought Chinese migrants into the Netherlands were living in Germany (cases 19 and 34). It is not known whether they had had any contact with Dutch suspects because one of the files was missing at the public prosecutor's office and the other involved too minor an investigation. Two other cases involving Vietnamese residing in the Netherlands were also small-scale (cases 18 and 85). At the time, the investigators did not examine whether there was any relationship with Dutch Chinese smugglers. All in all, only three Vietnamese were found to have connections with Dutch smuggling groups and the three were actually ethnic Chinese.

Of the 11 people who indicated Hong Kong as their country of birth, two lived in Hungary, where they were students at a music school. They were approached there and offered the opportunity to smuggle Chinese nationals from Hungary to England to make some extra money (case 40). They took on the job but were coincidentally arrested while transferring at Schiphol Airport. They had no connection with smugglers in the Netherlands. The country of residence of five other people born in Hong Kong is unknown, but is thought to be Hong Kong. They indicated only that they were ordered to accompany people to the Netherlands on a flight from Asia to Schiphol Airport. It is therefore plausible that there is a link with smugglers residing in the Netherlands in these cases, although further details are absent. The remaining four smugglers residing in Hong Kong had connections with other smugglers in the Netherlands.

Of the four ethnic Chinese from Singapore, two were actually living in Singapore. There was no evidence that those two had connections with Dutch

Chinese smugglers. The other two did have such connections. They had been living legally in the Netherlands for 10 years. Moreover, the file research revealed that they still had strong connections with China. For example, their grandparents lived in the same village as the migrants they were smuggling and the suspects spoke the same local dialect as the migrants.

The file concerning one Taiwanese individual could not be found. OM-data showed only that he was intercepted at Schiphol and lived in Taiwan. Because no other information was available, it was unclear whether this person had contact with smugglers in the Netherlands (case 35). Another Taiwanese individual had been a legal resident of the Netherlands since the 1960s. It was clear in this case that he had contacts. He was friends with several Chinese smugglers living in the Netherlands.

The Korean defendant in table 11 had a US passport and was living in the United States. He was arrested at Schiphol with two Chinese migrants while attempting to transfer from a flight from China to a flight to the United States.²⁰ He had no connections with smugglers in the Netherlands.

The Czechs and Germans each lived in their country of origin. The three Turks, two Britons and one Yugoslav were residing legally in the Netherlands. In all these cases, a connection was found between the suspects and ethnic Chinese smugglers in the Netherlands.

Two of the 102 Chinese defendants were found to have no connection with the Netherlands. Both were discovered during passport checks while attempting to transfer at Schiphol Airport. Dutch based smuggling groups were involved in all the other cases. It is worth noting that of the Chinese defendants, five were living in Italy (cases 41, 42, 44, 45 and 80), four in Spain (cases 21, 53, 56 and 76), two in Germany (cases 13 and 22), two in the Netherlands Antilles (case 68), one in France (case 39) and one in Hong Kong (case 73). Only one Chinese defendant lived in China. The country of residence of eight Chinese people was unknown. They were residing illegally in the Netherlands. The remaining 84 Chinese defendants all lived in the Netherlands. Of these remaining defendants, 28 were ultimately declared illegal or undesirable aliens (reference date: 12 May 2005).

In short, of all 172 defendants it can be stated with certainty that 155 were involved with smugglers or smuggling groups operating from the Netherlands. Chapter 6 addresses the type of cooperation in detail.

4.3.4 Age

No significant links were found between age and nationality or ethnicity. The table below gives the ages of the defendants at the time of registration with the public prosecutor's office.

20. From a migration perspective, it is probably no coincidence that of all the smuggled people discovered these migrants were the only ones to originate from the Korean minority in China.

Table 13 Age

Age	Number of defendants
15-17	7
18-24	33
25-30	30
31-35	37
36-40	29
41-45	18
46-50	12
51-55	12
Total	178

Source: OM-data

Because unaccompanied asylum seekers in the Netherlands who are under the age of 18 are deemed minors, this age group was included as a distinct category. Of the 172 defendants, seven were minors (4%). One was 15 years old, one was 16 and five were 17. All seven were Chinese nationals. However, there are serious doubts as to whether they really were minors, or adults attempting to qualify for a more favorable asylum status (as an unaccompanied asylum-seeking minor). For example, evidence of the latter scenario was obtained from an intercepted telephone call by an individual claiming to be an underage orphan. He called his parents in China and laughed while telling them that he and his girlfriend, also an underage suspect, were pretending to be ten years younger than they actually were.

4.3.5 Criminal records

The criminal records of all the defendants were retrieved from the Dutch Criminal records Office (*Justitiële Dienst*). The results varied considerably. Many of the 32 defendants who could be characterized as ‘Westerners’ had extensive records of minor and major offences. They had come into contact with the judicial authorities from an early age for offences such as destruction of property, breaking and entering, theft or fraud. Three had been arrested in the past for violating the Opium Act. Two others had been suspected of membership of a criminal organization. In addition, they all had a record of traffic offences from excessive speeding to drunk driving, driving while disqualified and driving without insurance.

The ethnic Chinese category and the category of ‘other Asians’ stand out for a different reason, namely their lack of criminal history (except for some speeding offenses). Of these 140 defendants, two men from China and one man from Hong Kong had been arrested in the past for violating the Opium Act. None of the defendants had ever been charged with membership of a criminal organization. There had also been very few cases of destruction of property, breaking and entering, theft or fraud (N=3). Eight individuals had been convicted of human

smuggling before. In addition, there were several specific antecedents that probably related to their employment history in Chinese catering establishments. These include 34 violations of the Commodities Act and 15 violations of the Foreign Nationals (Employment) Act.

Therefore the data did not show the Asian group of defendants to be typical career criminals. However, one thing must be taken into account and that is that this conclusion is based on the antecedents that the Dutch authorities knew about. In one case, convictions in other European countries were discovered. At least four Chinese defendants had human smuggling convictions in France or Belgium. This does not mean that the other Asian defendants had *no* convictions outside the Netherlands, but rather that it is not standard practice for the JDS to receive information about foreign convictions. Furthermore, the Dutch authorities do not exchange information with China. Therefore, it was not known whether the individuals in the Asian group had criminal records in the respective countries where they were born.

4.4 CONCLUSION

In the Netherlands, 88 investigations into Chinese human smuggling were conducted over a period of eight years, resulting in the arrest and prosecution of 172 people. Four men and one woman were arrested more than once. In one case, no less than 13 people were brought to trial simultaneously. At the opposite end of the scale, 54 cases involved just one person. However, these numbers do not indicate anything about the general level of organization. If they did, the fact that the majority of cases involved only a single suspect would suggest that smuggling in the Netherlands has a low level of organization or is not organized at all. The case file study shows, however, that several people were certainly involved in the small-scale cases. It was only that those individuals could not be tried in the Dutch courts for a number of different reasons. The importance of small cases is also evident from the fact that often several migrants were intercepted at the same time. The small-scale cases (one or two defendants) accounted for nearly a quarter of the total number of intercepted illegal migrants.

Some 63 people have been charged with 'participation in a criminal organization'. However, charging someone with the participation in a criminal organization (Article 140 Dutch Penal Code) is often used by a prosecutor as a way to obtain special investigation powers like e.g. wiretapping. Article 140 by itself is therefore also insufficient to deduce the existence of some form of 'organized crime' (P. C. Van Duyne, 2003: 298).

In government sources, the number of smuggled Chinese nationals is usually estimated to account for some 80% of all asylum seekers. That would mean that of the 6,730 times a Chinese national applied for asylum during the research period some 5,400 individuals were smuggled. Sometimes it is even thought that *all* Chinese asylum seekers have been smuggled. However, the court records would seem to suggest that smugglers were responsible for some 250 migrants a year, i.e. a total of 2,000 individuals over the research period. This figure is far

lower than the official number of asylum seekers. What is more, the majority of these 2,000 people were smuggled *out* of the Netherlands and (insofar as it could be determined) they did *not* apply for asylum. The estimates based on asylum figures are therefore very difficult to substantiate. There are two possible explanations for the difference between the numbers based on asylum applications and the numbers derived from the case file study. Either the majority of asylum seekers were not smuggled in but entered the Netherlands by different means, or a very large number of those who smuggled Chinese people remained hidden from the Dutch authorities.

This chapter also delved into several general characteristics of human smugglers, such as sex, age, nationality, ethnicity and country of residence. Notice there is a significant limitation inherent in the empirical material used for this research. The issue is the crime, and not the social background of the defendants. Aspects such as education, marital status and employment status remain unknown. Information of this nature is better obtained from field interviews. Limitations also ensue from the Dutch perspective. The Dutch authorities are unwilling to exchange information with the Chinese authorities. Consequently, certain conclusions may not be completely accurate. For example, information retrieved from the Dutch Criminal records Office indicates that smugglers from China in the Netherlands have very few criminal antecedents. The number of drug-related crimes is very low, for example. However, this reflects the situation in the Netherlands only. There is a possibility that the defendants have e.g. drug-smuggling convictions in China.

The majority of the defendants originated from the People's Republic of China. This was to be expected, as the Chinese who are smuggled all come from Mainland China. But there were also several ethnic Chinese individuals from other countries. The share of defendants from Hong Kong ($N=12$) who were living in the Netherlands was quite low relative to the size of this population group in the Netherlands. This could be due to a lack of connections with the smuggled people who solely come from mainland China. Although the literature sometimes attributes a prominent role to the Taiwanese in human smuggling to the United States (Yiu, 2000; Zhang & Gaylord, 1996), there were very few Taiwanese in the research group (only two Taiwanese men were suspected of human smuggling).

By contrast the share of Vietnamese is much higher than would be expected on the basis of the small size of this population group in the Netherlands. Of the twelve individuals, seven were resident outside the Netherlands, but the other five were living in the Netherlands. They were all ethnic Chinese, which could explain their involvement in the smuggling of Chinese people up to some point. Nevertheless, their share is still fairly large considering the size of the ethnic-Chinese Vietnamese population group relative to the total Chinese community. No explanation was found for this.

However, focusing only on Asian suspects would be insufficient. Nearly 20% of the defendants involved in smuggling Chinese people were non-Asian. They came from Germany, the Czech Republic, Turkey, Great Britain, Yugoslavia and the Netherlands. A reason may lie in the specific practices common to Chinese human smuggling. These practices are examined in the next chapter.

5 Actors

5.1 INTRODUCTION

In Mandarin Chinese, human smuggling is called *toudu*, which literally means ‘steal passage’. A smuggled person is a *touduke*, ‘someone who stole passage’. In Wenzhounese, using the services of smugglers is called *huang niubei*, or ‘traveling on the back of the yellow ox’ (Pieke, 2002: 11). However, illegal migrants are able to ‘steal passage’ or ‘ride a yellow ox’ only because of the involvement of others, the snakeheads (*shetou*). As smuggled people are not punishable under Dutch law (as long as they have not committed any offences, such as passport fraud), very little information is available about them. In this study, very little can therefore be said about the smuggled people themselves because the source material is insufficient.

Smugglers, however, are liable for punishment under the law, and consequently a great deal of information is available about them. Chapter 2 provided a brief theoretical overview of the distinct functions of the people involved in the process, namely the organizer, recruiter, transporter, local guide, passport falsifier, enforcer, debt collector, corrupt officials and support personnel. There is general consensus regarding these functions among researchers who take the more hierarchical approach and those who take the network-oriented approach. Before addressing the possible forms of cooperation, it is important to determine whether these functions actually exist in the Dutch context. This chapter therefore looks at whether the defendants tried for human smuggling in the Dutch courts as discussed in chapter 4 fulfilled specific roles. It also examines whether categories of smugglers share certain characteristics. Connecting the smugglers to particular functions also serves to explain how Chinese people are smuggled into or through the Netherlands in practice.

5.2 OVERVIEW

The court records show that the defendants performed specific tasks and functions in the smuggling process. There are nine different functions, as already listed in chapter 2. Table 14 shows the number of defendants according to their primary function. Each suspect is attributed only a core activity, although many played more than one role. In some cases, for example, the organizer also performed a support function.

Table 14 Primary smuggling functions

Primary smuggling function	Total
Organizer	22
Recruiter	0
Transporter	88
Local guide	0
Passport falsifier	2
Enforcer	10
Debt collector	0
Corrupt official	3
Supporting personnel	43
Unknown	10
Grand Total	178

Source: case files

The table includes the category “unknown”. The functions of ten individuals are unknown because the files were lost or because consent to view the files was not granted as the cases were still pending. Each of the smuggling functions is described in detail in the sections below.

5.2.1 Organizer

In total 22 people were identified as organizers. The files revealed specific characteristics that typify this function. For example, organizers always manage the finances. They determine how much the other smugglers are paid and when. They coordinate the smuggling process and have a lot of contacts at home and abroad for that purpose. They turn out to be no distant masterminds but are usually also directly involved in the execution. For instance, they often assist in the daily activities by purchasing food for groups of illegal migrants, selling passports or picking up and driving the migrants around in the Netherlands. Multiple telephone calls are placed every day, sometimes until deep in the night due to time differences.

Twelve of the 22 organizers were involved in the large-scale transport of migrants from the Netherlands to Great Britain or the United States. These organizers were relatively young (in their thirties or forties). Nine were ethnic Chinese from the People’s Republic of China, and were recent migrants who had come to the Netherlands (legally) in the 1980s or 1990s. Immigration and Naturalization Service data shows that they were granted Dutch residency status in the 1990s. Three organizers had prior convictions for human smuggling and the rest had no criminal record. It was also striking that five of the organizers, who were responsible for smuggling hundreds of migrants, were (ethnic) Chinese women (cases 9, 17, 28, 29 and 98). Some of them worked with their husbands. It was unclear who was the first to get involved in smuggling. One woman claimed to be the brains behind the organization. She complained to a girlfriend that her hus-

band was wasting money on gambling or impossible smuggling plans. According to her, it was due solely to her common sense and attention to detail that the couple were able to make a profit from smuggling (case 17).

The other ethnic-Chinese organizers were involved in smaller-scale forms of smuggling. They also assisted directly in the day-to-day execution. Only one organizer attempted to smuggle migrants into the Netherlands alone (case 27). He was not very successful. He managed to get just one or two migrants into the country a year.

Non-Chinese organizers were identified in three large-scale investigations (cases 15, 30 and 32). One smuggler was Turkish and another British. Both had been living in the Netherlands for a long time. The third person was born in Indonesia, but was not ethnic Chinese. All three were male. In contrast to the Chinese organizers, these three can best be described as 'resourceful' businessmen, who were engaged in several different businesses. Some of their businesses, e.g. goods shipment, were legitimate. However, they did not shy away from illicit deals that came their way. They were involved, for example, in cigarette smuggling, tax evasion and the transport of migrants. All three had a criminal record.

5.2.2 *Recruiters*

None of the suspects acted as recruiters in China, en route or in the Netherlands. However, this does not necessarily mean that the migrants who were smuggled to or through the Netherlands were never recruited. It bears mentioning once again that the drawback of this data set is that it provides limited information on the smuggled people themselves. In some cases, migrants said that a person had come to their village and asked them if they were interested in going abroad. However, the identity of the recruiters abroad remains unknown.

In some cases, a form of deception was unearthed. For example, a number of migrants said they were promised that they would have legal identity papers for the journey. However, this proved to be a lie because later they found themselves completing some legs of the journey on foot in secret and in the back of lorries.

Still, most of the migrants who provided information about the start of their journey gave the impression that they were not persuaded by recruiters to leave but, in line with ideas on social capital in a migration setting, left on their own and/or their family's initiative. Some illegal migrants told how their father in China arranged for a smuggler (cases 33 and 51). In one case, a wiretap recorded a mother contacting an organizer. She specified that her son had to be smuggled out of China on a tourist visa. She gave a description of her son, probably to ensure that the smuggler would issue him with the correct papers (case 60). In another example, a man living illegally in the Netherlands enlisted the aid of a smuggler to bring over his wife and children (case 28). He later decided to try his luck in America. Not because a smuggler enticed him, but because his cousins living there (illegally) had told him that life as an illegal migrant was much easier in the United States and there were very good opportunities to make money.

Because of this suggestion, he sought out a smuggler and went to America.²¹ An unidentified woman in Frankfurt asked a Dutch-based organizer if she could be smuggled to the United States. The smuggler replied that he was quitting the smuggling business. Her disappointed response was: “Oh, so you don’t do that anymore ...” (case 28). Another organizer received several calls from people in the United States, Italy, the Netherlands, Germany, etc. All of them wanted their family members smuggled from Europe to the United States (case 9). In one telephone conversation an organizer even advised *against* smuggling. In this case an illegal migrant complained that his wife in China wanted him to leave the Netherlands. Because she thought her husband was not sending enough money home, she wanted him to go to England like her brothers or, better yet, to go to the United States. It was the organizer who told the illegal migrant that his wife should not complain and advised him against moving. The smuggler remarked that people back in China had no idea of the hardships involved in illegal life in the West: “She [the wife] should go to England herself; that will make her stop whining” (case 17).

Relatives or friends also help would-be migrants get into contact with smugglers. For instance, one person was brought into contact with a smuggler in China through his grandmother (case 18). One person knew her classmate had family involved in the smuggling business and asked to be put in contact with them (case 3).

As successful smuggling attempts create positive feedback, more people seek the help of the successful smuggler. An investigating officer interviewing an organizer asked why he did not use recruiters. He replied that it was unnecessary. People came to him because of his good reputation (case 28).

5.2.3 Transporters

The most common function seen in Dutch cases is that of transporter. All the cases at Schiphol Airport, for example, and nearly all cases in the border regions are triggered by the interception of a transporter. Transporters are always discovered in larger cases, too. In fact, there were only six cases in which *no* transporter was found. In those six cases, individuals were convicted of human smuggling for providing the opportunity or the means to stay illegally in the Netherlands (by arranging work and housing).

Although transporters are therefore involved in virtually every case, differences can be identified. There is a significant distinction between road and air transport. Several different means of land transport are used. Lorries are deployed to smuggle groups of 15 to 60 people. Smaller groups of 5 to 20 people are hidden in vans. Groups of up to 7 people are transported more openly in the passenger seats of private automobiles or even on public trains. When illegal migrants are smuggled by airplane, the transporter uses commercial airlines.

21. A daughter who remained behind later told the investigating officers that her family had found work in a sweatshop. They indeed earned more than in the Netherlands, but only by working day and night.

Note that none of the transporters in the research data was of the seafaring type.²² While incidents of smuggling by freighter from China all the way to the US have occurred (Chu, 1994; Wang, 1996), this method has not (yet) been discovered in relation to Europe. Transport by water comes into play only when a truck driver takes the ferry from the Netherlands to England.

Some nationalities, such as the Vietnamese, Dutch, Germans, Polish and Czechs, act only in a transporting capacity. Although none of them transport illegal migrants all the way from the People's Republic of China to Europe, they take care of certain parts of the journey. Vietnamese drivers are especially active on the route between the Czech Republic and Germany or Germany and the Netherlands. They earn 100 to 200 euros per smuggled person. In the police statements made by intercepted Chinese migrants, it is not uncommon to find references to Vietnamese drivers on stretches from places as far away as Moscow (cases 6, 18, 23 and 28).

The Dutch defendants were also prominently involved in transportation. Three large cases were sufficiently detailed to provide a better understanding of their methods (cases 15, 30 and 32). In two of these cases, British men were also involved in a transporting capacity. The Dutch (and British) typically use lorries and are only active between the Netherlands and Great Britain. All of them had years of experience hauling freight across Europe, so the route between the Netherlands and Britain was very familiar to them. When these drivers agreed to transport illegal migrants, the smuggling operation was of a fairly ad hoc nature. The drivers would continue their daily business of hauling regular cargo loads to their assigned destinations. When a shipment for Britain came up, they would assess the space required for the regular consignment. If there was enough room left for a number of illegal aliens, they informed their smuggling contacts that an opportunity had presented itself. This was usually at short notice because the drivers would only know on the morning of the day of departure or a few days beforehand what they were going to be transporting. After informing his contact that a smuggling opportunity is available, the driver is instructed to proceed to a certain location. Shortly thereafter the illegal migrants are brought to this location in small vans or private cars driven by Chinese men. When no one is looking, the migrants board the lorries. This can happen at a car park near a petrol station or restaurant next to a motorway. Sometimes the first meeting point turns out to be unsuitable. Noisy children or too many passers-by make it necessary to find a quieter place elsewhere. Large-scale transports of this kind are often secretly accompanied by the Chinese contact without the drivers' knowledge. They follow the same route in a car and observe whether everything goes well. Another possibility is that they cross over to Britain earlier and wait for the transport to arrive.

If the journey succeeds, that is, if the driver arrives undetected in Britain, he telephones his contacts. Once more he is directed to a certain place, where the procedure is repeated in reverse order. The illegal aliens climb out in a quiet car park and are taken away in cars or vans driven once again – according to the drivers' statements – by Chinese men. No further information is available on

22. There is one anecdotal story that a Dutch owner of a small pleasure yacht used his boat to smuggle Chinese migrants to England (B7).

these Chinese men because they were not investigated by the Dutch police. The driver continues his journey in Britain to make the delivery and then returns home, where he gets in touch with his original contact. They agree to meet at a certain time in order for the transporter to receive payment. Lorry drivers earn approximately USD 1000 per smuggled illegal migrant (cases 15, 30 and 32). With several individuals being smuggled in each transport, this is a lucrative business. A driver can earn USD 15,000 or more on a single trip to Britain.

Although Western lorry drivers can make a lot of quick money by transporting illegal migrants, the risks are also very high. First of all, the journey is no easy ride. Bad weather and stormy seas make most migrants violently seasick. Although they are given plastic bags to vomit into, some are unable to find their bag in time. This happened when a group of about 30 Chinese migrants was transported to England. Due to unhygienic conditions, the lorry's regular load of Yogurt bottles was ruined. What is more, the migrants had opened several boxes and drunk the contents of the bottles. It was obvious that the lorry had transported illegal migrants. This led to civil lawsuits between the transporter and the commissioner. An additional complicating factor is that certain foodstuffs and produce have to be transported at low temperatures and lorries with special cooling installations are sealed to make them airtight. A 15-hour journey in subzero temperatures without sufficient oxygen is not viable. When transporting migrants, the driver has to turn off the freezer and open the doors from time to time to let in fresh (warm) air. Because large groups of people generate additional body heat, delicate cargos are susceptible to spoiling, as in the case when 20 Chinese migrants were transported with a load of frozen pizzas (case 32). The worst case occurred when migrants were transported in a lorry with insufficient oxygen. Although the driver had opened the doors before boarding the ferry, the boarding procedure and boat trip simply took too long. Probably out of fear of detection, the driver had closed the only remaining air vent. As a result, 58 people out of a group of 60 illegal Chinese migrants suffocated on that hot summer day in June 2000.

Secondly, the police and customs are much more likely to detect a trip from the Netherlands to Britain than a trip from Germany to the Netherlands. Under the Schengen Agreement, the borders between Germany and the Netherlands are completely open and inspections are only done at random. Great Britain is not a party to the agreement, so checks are much more systematic.²³ The files indicate that at least four of the Dutch and British drivers had previously been detected transporting Chinese migrants. All of the interceptions took place in England.

23. To make matters complicated, Article 197a (strangely enough) did not make smuggling from the Netherlands to non-Schengen countries (e.g. the UK and the US) punishable under Dutch law prior to 2005. However, with a bit of legal manoeuvring this was easily addressed. Investigations showed that after arrival in the Netherlands, the migrants were practically never smuggled immediately through to the US, for example. The smugglers would provide their clients with accommodation pending further travel arrangements. This made them punishable under the law because they provided the opportunity for an illegal stay in the Netherlands, which is one of the terms of Article 197a.

The transporters were heavily fined under British regulations, at a rate of about USD 3000 per alien. As an additional measure, the lorry was confiscated (temporarily) and the driver barred from any future travel to Britain. In addition, the transport company is also vulnerable to lawsuits by their commissioners for damages in the event of a failed delivery, as in the case of the Yoghurt bottles.

The fine, the confiscation and the lawsuit usually prove to be too much for small transport companies. They go bankrupt and the driver is left without work and income. In order to solve their money problems, a Dutch and a British transporter decided to go illegitimate. They established a new transport company, solely for the purpose of smuggling illegal aliens. In contrast to their earlier transports, the regular cargo was unimportant and only used to disguise the true purpose of the journey. Commissioners were no longer important and the transporters started buying fake cargo themselves. All they needed was enough goods to create a false impression of a fully loaded lorry. In one case, cheap secondhand furniture was used. In another, a few pallets of tomatoes. Behind this front, the transporter made sure there was plenty of room for illegal aliens. They tried to transport as many migrants as possible to quickly get out of financial trouble.

Rail travel is another method of land-based transport. Some illegal migrants are transported between different countries in Europe in international trains, usually under the guidance of a minder (cases 9, 16, 18, 22, 60 and 75). Except for one Vietnamese woman, all such transporters were Chinese men. In some instances, the migrants were not physically accompanied by a transporter. They were told to board the train in Paris and were picked up from the train station in Amsterdam (case 28). A number of migrants also told of their journey by train from Beijing to Moscow, but these stories could not be verified.

Air travel is a last category of transportation. Most smuggling by air only involves small groups of Chinese migrants. One to five migrants is the norm. The largest group intercepted, however, numbered 30 (case 51). The investigation showed this was not the transporter's first trip. In the previous five months, the man, who was from Hong Kong, had rented a tour bus 16 times upon arrival in the Netherlands. The *bona fide* Dutch tour bus drivers told investigators that each time they drove a group of about 20 Chinese people from Schiphol Airport to a certain hotel. The hotel staff subsequently told the police that the Chinese never left their rooms. After a few days they were picked up in private cars and driven away.

Smuggling migrants by air leads to two types of activity. In one scenario, the transporter accompanies the illegal migrants throughout the flight. The transporter keeps the migrants' passports in his possession for most of the journey and gives them back just before Customs. The transporter also tells the migrants which line to stand in, how to behave, which passport to present, etc. Once through Customs, the transporter recollects the passports. It is not always clear if real or fake passports are used. Sometimes both are used. Some migrants leave China on their own passports, but halfway through the trip assume other identities and use fake or falsified passports. This job earns the transporter a few hundred euros for each person smuggled or 500 to 1000 euros for a group (cases 38 and 40). The fee is paid after the migrant safely crosses the border. On a few occa-

sions the migrant was carrying the cash with him. In such cases the migrants told the police that the organizer in China had given them the money to hand over to their minder upon arrival (cases 38 and 65).

In the second type of airborne smuggling activity, the transporter is not on the flight from China, but waits for the migrant to arrive at the international airport (Schiphol, in the Dutch case). In this scenario, the transporter does not wait for the migrant to arrive at the main reception area, but picks him up *airside*, in the transit lounge. This is accomplished in the following fashion. Suppose a Chinese migrant wants to go to England but can not obtain a visa. The organizer books the Chinese migrant on a flight to a destination outside Europe that does not impose visa restrictions on Chinese visitors, e.g. an African country. The smuggler knows there is no direct connection from China to this country, so the migrant has to make a stopover at Schiphol to change flights. At this stage of the journey, the migrant gets his chance to go to England, his real destination. Arrangements are made in advance for a smuggler, based in the Netherlands, to meet the migrant at Schiphol Airport. At Schiphol arrivals and departures are channeled through the same area, so the transporter simply books any outgoing flight. It is agreed beforehand where they will meet, e.g. at a specific shop or pier. One migrant told the police that the Dutch-based transporter asked him to send a picture of himself. He was to wear the same clothes so the smuggler could easily recognize him (case 64). In the transit area, the transporter supplies his client with a new identity and a ticket for a flight to the UK. Because the migrant is already in the transit area, he is able to avoid the strict customs checks on the UK flight. Equipped with a new identity, the migrant boards the flight to the UK. Sometimes the transporter will accompany the migrant to the new destination, but this is unnecessary if the migrant is competent enough to fly by himself. In that case, the transporter returns home. Money-conscious as he is, he is likely to try to get a refund for the ticket he needed to gain access to the transit area. In the meantime, the original flight to the African country leaves with an empty seat.

When a migrant assumes a new identity by switching passports at the airport, the police often refer to this as the look-a-like method. The transporter involved ensures that the original passports are returned to the smuggling group for re-use. After exchanging passports with the migrant, the transporter keeps the original passports. Transporters sometimes use mailboxes before they go through Customs. For instance, immediately after exchanging passports with three migrants, one transporter put the passports in an envelope that was stamped and addressed to a Chinese man in the Netherlands (case 65). In another case, the address was one in China. It is not known whether this was the address of an organizer or a family member of the migrant (case 49).

When migrants are transported by air, it is sometimes a complicated business providing them with a new identity. A different set of papers is not always enough. Changes in appearance are also provided. Some transporters who accompany their migrants throughout the journey have been known to take them shopping first in Beijing or Hong Kong to give them a more modern look. Their hairstyle is changed (and sometimes dyed with red or blue streaks to give the impression of being trendy and urban) and their old clothes are thrown away. In

preparation for the journey, the transporter or others teach the migrants the false names that correspond to the falsified passports they are going to present. Some migrants in a group admitted that they were instructed by their transporter to tell the same story: they worked for a certain company and were on a business trip (case 51). Some are taught to tell asylum stories. In other examples, a transporter at Schiphol Airport was seen giving reading glasses to a group of newly arrived Chinese migrants so they would match the photographs in their authentic, but stolen, Japanese passports. The preparations were not so extensive that the glasses had the correct prescriptions, which led to some of the migrants complaining of dizziness (case 42).

It is a transporter's function to accompany migrants and/or provide them with passports, but he also tries to maintain some distance between himself and the migrants. He does not want to become a suspect if something goes wrong. On the flight, the transporter therefore does not usually sit next to the migrant. During the customs check, the transporter often stands in another line or waits until the migrant is cleared. When documents are swapped in the look-a-like method, prying eyes need to be avoided. Toilets are ideal places to make the exchange (cases 43, 53, 64 and 76). In one case, a smuggler and three migrants left on the same plane from China, but split up on arrival at Schiphol. The smuggler got off the plane early and went to a restaurant in the airport lounge. The three migrants did not follow him, but phoned an unknown organizer in China. The man in China then contacted the transporter who was waiting at the restaurant. The transporter told him where he was, after which the man in China contacted the migrants again and told them where to meet up with the transporter (case 38). In another case, a migrant phoned from Beijing to the Netherlands that he was about to board his flight. The migrant was instructed to call the number again once he had arrived. He followed these instructions and had to wait several hours for someone to come and guide him through Customs (case 65). In unrelated but similar incidents, four migrants were told in China to call a Dutch telephone number once they arrived at Schiphol. Again, a transporter then arrived to hand over false identity papers (cases 58 and 53). In one extreme case, the migrant contacted a mobile phone number in the Netherlands and had to wait three days in the departure lounge before his Dutch-based transporter arrived. During this delay, he met several other Chinese nationals who had called the same number and were also waiting. Police observation confirmed that the transporter made contact with all the migrants and handed over identity papers for different destinations (case 43).

Although it would be going too far to describe the transporters connected with air travel as sophisticated, all had flown before and knew how to get around. In contrast to large-scale road transports in which there is no need for communication between transporter and migrants once they are underway, interaction is essential for transporters who use regular air routes. The smuggler and the migrant have to be able to communicate in order to avoid making mistakes. A Western transporter traveling with a Chinese migrant might be conspicuous. That is why so many transporters are Asian (read: Chinese speakers). Of those arrested at Schiphol Airport, 32 men and six women were born in China, nine

men were from Hong Kong, one man and one woman were from Singapore, one man was from Taiwan and two men were from Vietnam. This is not to say that only Asians act as transporters at Schiphol Airport. One large-scale investigation established that two non-Asian transporters accompanied Chinese migrants on a flight from Amsterdam to the US. The migrants were carefully instructed beforehand and knew how to respond to the transporters because they had practiced a role-playing game on how to respond to border patrols and learned to use hand signals (case 9).

Some transporters also had previous smuggling charges or were suspected of smuggling (cases 36, 43, 49, 59 and 64). Other transporters admitted that, although this was their first interception, they had been successful a couple of times in the past (cases 40, 51, 57 and 73). One investigation uncovered a smuggling group that was responsible for at least ten incidents in which several people were smuggled through Schiphol Airport on each occasion (case 60). Another investigation turned up evidence that several transporters belonging to a single smuggling group had used Schiphol and other airports on a monthly basis for four years running (case 9).

The arrested transporters who lived abroad were all found to have accompanied the migrants at the start of the journey by air in China or Hong Kong. The transporters residing in the Netherlands had used the look-a-like method. They presented migrants with a different identity at Schiphol Airport and then left, in most cases. Only when the smuggling journey originated *in* the Netherlands did the Dutch transporters accompany the migrants throughout the trip. For example, there was a case of a group of smugglers who concentrated solely on smuggling migrants between the Netherlands and America (case 9).

5.2.4 Local guides

No local guides were found among the defendants. This is not surprising, considering the Dutch borders are relatively easy to cross. There are no large impenetrable forests, extensive plains or raging rivers where border controls are at a minimum. In the research, none of the 172 individuals in the research group were found to have had contact with local guides in other countries. Some smuggled persons stated that at an early stage in their journey 'white devils' had guided them across rivers or secreted them through forests and hills. This probably took place in the border regions of Russia, the Czech Republic, Poland, Austria and former Yugoslavia. However, the Dutch police were unable to verify these accounts.

5.2.5 Passport forgers

False or falsified passports were discovered in nearly every attempt at Chinese human smuggling through Schiphol. Forged documents were also found in all the major investigations in which the police searched premises. It was only in

cases where the smuggling was done by road that it was unusual to find documents, but that does not mean that forged documents were not used somewhere en route. Many migrants state that they crossed the border legally when they left China, but that during the journey the transporter confiscated their passports. The last leg of the journey is then done in secret, without papers. It should be noted that not every legal border crossing involves false or falsified documents. An unknown number of illegal migrants leave China using their own passports. For example, one migrant told the police that his smuggler instructed him to obtain a passport with a visa for Thailand through regular procedures. The smuggler became involved only after the migrant arrived in Thailand (case 53). In another case, a migrant left China on her own passport. In the Netherlands, the smugglers wanted her to hand over her passport. She refused because it was hers (case 6). Another migrant was given a falsified passport only after reaching Schiphol Airport (case 56). The major advantage for illegal migrants in leaving China legally is that they will not be subject to punishment if they return. Even if they go back years later and their original passport has expired, they can obtain a new Chinese passport for a fee. Conversely, illegal departure is frowned upon by the Chinese authorities and will cause the migrant problems if he returns to his homeland.

The biggest document vendors appear to be based abroad. They are able to get Netherlands-based smuggling groups ten, twenty or even more passports of different nationalities at the same time. Sometimes the passports are made to order. For instance, in France a smuggler took small groups of Chinese illegal migrants to a local commercial photographer to have their pictures taken. The pictures were then sent to a man in Thailand, who used them to doctor the necessary passports and sent them back to the smuggler (case 9). Documents were usually dispatched through regular courier services such as DHL, Fedex, UPS, etc. Each shipment would contain several passports. One that was intercepted contained ten Japanese passports and one Chinese passport sent from China (case 17). However, because these vendors live abroad, not much is known about them. A police analysis of certain telltale 'signatures' in the falsified documents that could be used to establish the involvement of a particular document vendor has not been carried out. The Dutch police catch only traces of these vendors through intercepted telephone communications and, of course, receive their handiwork when a smuggling attempt fails. Only a few characteristics are known. First, they are all male. Second, they all live in Asia, notably China and Thailand. Third, they probably have connections with local authorities (which would probably ensure excellent documents).

The most popular documents that foreign vendors use are those of Asian nationalities that are exempt from visa restrictions in travel to the West. For example, Japanese, Taiwanese and South Korean documents are among the most frequent found in the possession of Chinese illegal migrants. Some are completely false whereas others are falsified. When they are falsified, it usually turns out that they were reported lost or stolen by Japanese or Korean individuals on holiday or at home. Whether they were actually stolen or sold by the legitimate holder remains unknown.

None of the people in the research could be identified as someone whose sole occupation was falsifying or fabricating documents. In one case, a Chinese person was discovered in possession of material for falsifying passports, namely official stamps, ink, a UV light and several doctored passports. But he was also involved in the operation as a transporter and organizer (case 60).

Most smugglers based in the Netherlands appear to go ‘shopping’ for documents. Some buy the passports from local, non-Chinese vendors. This carries some risks. The promised goods sometimes fail to materialize or are below standard (case 3). A passport of a naturalized Dutch Chinese person is also a much sought after commodity. One main suspect was recorded on the phone asking around among acquaintances if they had a passport to let, either their own or their spouse’s or children’s passport (case 28). In one case, a friend was tricked. He was told that an illegal migrant wanted a passport as a backup when he went shopping in Paris. In actual fact, the illegal alien traveled to the Czech Republic and sent the original passport back by post. The official holder was furious (case 23).

In some cases, the smugglers in the Netherlands obtained a passport, and then began looking around for a matching face in China. For instance, an organizer had the passport of a 77-year-old Chinese woman with Dutch citizenship. The smuggler stressed the importance of appearance. The illegal migrant in China should not look too young because then there would be “a chance of failure” (case 28). In such instances, the original passport is used without alterations. In some cases, though, the date or the photograph is changed. Photographs are occasionally replaced with a degree of audacity. A careful investigation showed how this practice works (case 28). A Chinese person with Dutch nationality was asked by a Chinese friend of his (who had been contacted by the organizer) if he would like to make some money. Because he had debts, he was game. The friend advised him to wash his passport at 90 degrees to ruin it. Then he could apply for a new one. During the application, the friend gave him a set of pictures of another Chinese man, the person to be smuggled. He was to present these pictures to the local administration. Although these pictures did not look like him, it was supposedly not a problem. As one counterfeiter was told: “because all Chinese look alike and they [the police] would never find out” (case 28).

Someone who is willing to use this method of photo substitution can earn about 5,000 euro per passport (case 28). Some passport holders manage to lose their passports several times during the course of a few years. This appears to be relatively risk free. For example, an illegal woman tried to gain entry to the Netherlands at Schiphol using the passport of another Chinese woman with Dutch citizenship, who happened to have lost her passport four times in two years (case 78). It was not until the last incident that she was suspected of involvement in human smuggling, but nothing could be proven. She was never brought to court.

Several smugglers probably used their own passports (or their family’s) at one time or another. Again, this is relatively risk free. Even if an applicant came under suspicion of *mala fide* practices, local authorities could prove nothing, let alone impose sanctions. With unbelievable statements like “we asked for a new passport, because this is the new model, and we like new things”, a smuggler got away with filing a false application (case 6). One smuggler transporting two ille-

gal migrants was found carrying the residence permits of his son and brother. The pictures resembled the illegal migrants and were probably intended for their use (case 21). Nothing could be proven. Another transporter was found carrying his own passport, which he had reported stolen. He avoided any penalty by declaring that a friend of his had bought the passport back on the black market. He claimed he had informed the local police. The local police were “not sure” if he had really told them, but because there was doubt, no further action was taken (case 2).

5.2.6 Enforcers

When only one or a few migrants are smuggled, it is not essential to have enforcers around. Enforcement is especially unnecessary when the migrants are friends or family. The smuggler and his client(s) often live in the same place and may share the same food. However, this does not rule out friction. One migrant complained on the phone to his mother in China that he had been waiting at the smuggler’s place for four months for a chance to continue his journey to England. He had nothing to do and had already seen all the videos from the Chinese video library (case 28). Another migrant complained of too much sun in his room (case 9). But such comments also indicate that these migrants are not maltreated or intimidated by their smugglers.

In several cases involving large groups of migrants, there was a much greater distance between the smuggler and his clients. These smugglers often spoke of their clients in degrading terms, such as piglets (*zhuzha*) and ducks (*yazi*). This suggests there is a major distance between the smugglers and their clients. Even the smuggled people refer to themselves as ducks to describe their plight. For instance, some unknown illegal migrants who stayed in a safe house had drawn flying ducks on the walls representing themselves (personal observation). The terms piglets or ducks are also suggestive of the business the smugglers see themselves involved in: transporting ‘livestock’. Just like animals, the smuggled people have no knowledge of their exact location or plans regarding their transportation (Chin, 1999). These terms are never used in smaller smuggling cases, probably because the workings of social capital create less distance between smuggler and client.

Large groups of illegal migrants are customarily put up in safe houses. This is commonly referred to as “duck storage” (case 9). In a similar vein, Chin relates that sometimes safe houses are called “duck houses” (Chin, 1999: 194). These duck houses are characterized by less than favorable conditions. First, they are usually situated in bleak neighborhoods, where the houses are often derelict. Because the safe house is used as temporary housing for migrants, the smugglers are not going to invest time and money installing better plumbing or insulation. The advantage of such neighborhoods is that the level of social control is low. Nobody will report constant arrivals of groups of Chinese people to the police. Second, the migrants are given cheap food (those who want better food have to pay more). Third, the migrants are uncertain when their journey will continue.

They sometimes have to wait months before moving on because the smuggler could not arrange the promised transport. All the while, they are not allowed to leave the house. In one case, about 30 migrants were kept locked up in a small apartment in Paris. They were prohibited from moving around to keep the noise down because of the neighbors. Because no plane tickets were available, the migrants had to wait for months before they could continue their journey. One migrant developed a physical problem due to the cramped conditions. His situation worsened drastically and in the end he could not move his legs at all. Because the smugglers feared detection if they took him to the hospital, they took him to a doctor of Chinese medicine in the Netherlands (case 9).

The overall situation in safe houses thus creates resentment towards the smugglers. The migrants become unruly and may even start to fight among themselves, which can result in injuries (case 9). As a countermeasure, the smugglers use enforcers to keep the peace. The smuggler hires somebody to keep watch over the migrants. Enforcers are young men who are not afraid to use violence. In some instances, a migrant was asked to keep order. In exchange, he was given preferential treatment or a discount on the smuggling fee. It seems that these migrants *cum* enforcers already knew the smugglers personally back in China (case 29).

Sometimes migrants were mistreated. When the smugglers believed the migrants had misbehaved, they ordered the enforcers to beat them up (case 9). Sometimes the police found indirect evidence of maltreatment, such as handcuffs and nightsticks, during a search of the premises (case 23). However, rape was not discovered in any of the Dutch cases.

Most migrants would not report maltreatment. There is a twisted connection between the smuggler and his clients. The clients depend on the smuggler to take them to their destination. A certain amount of hardship is just something to be endured. Over the years, the police have observed that several migrants they took into custody after a raided safe house, returned to their smugglers voluntarily after their release (cases 9, 29 and 98).

5.2.7 *Debt collectors*

None of the people in the OM-data query functioned as a debt collector. As most smuggling cases in the Netherlands involve smuggling to the UK or the US, debt collecting most likely took place in the country of destination. Another likely place is China, where friends or family pay the smuggler after a migrant successfully arrives at his destination (see also section 6.2.1). However, the Dutch files contain no data on this subject because the Dutch and Chinese authorities do not cooperate with each other.

5.2.8 *Corrupt civil servants*

The files show that corruption played a role in a number of cases, but it took place for the most part in China and was therefore not dealt with further in the files.

However, some information on this matter was obtained through intercepted telephone calls to China made by smugglers based in the Netherlands. For example, a man in China told a Chinese smuggler in the Netherlands that he had had a run of bad luck. A good friend of his at the public security office had died when he was run over by a car in a road accident. To make matters worse, the dead man had some doctored passports in his desk at the public security office that were already paid for (case 9). One man in Dubai was known to have fraudulently handled student applications (case 17). In two other investigations, a frisk search of two transporters at Schiphol Airport yielded their notebooks (cases 51 and 57). They contained a list of things to do, such as hire a driver, book a plane ticket and get a passport, and 'bribe Customs in China'. According to the transporter, the bribe would cost 25,000 Renminbi (RMB) per smuggled person. By comparison, a Chinese passport (probably applied for legally) cost only RMB 3,000 and a visa RMB 2,000. Bribing customs officials in Malaysia was relatively cheaper at just RMB 15,000 per person.

This is not to say that corruption takes place only in China. In some human smuggling cases, it occurs closer to home. In one case, an organizer had a highly placed customs official at the airport in Paris 'in his pocket' (case 9). This man had officially been appointed to prevent illegal migration to the United States and Canada. By virtue of his position, he consulted regularly with embassy personnel and the US customs authorities. He even had the right to deny migrants permission to continue their journey if he had any doubts. This made him ideally suitable for the purposes of the organizer, whose clients were en route to the United States. He was able to give detailed advice. For example, it was better to smuggle no more than one or two people at a time because that would be less conspicuous. Intercepted telephone calls proved that the customs official had received a fee of USD 2,000 per person for his part in the successful smuggling of at least 30 illegal migrants. He was able to operate for a long time without drawing suspicion because he was actively engaged at the airport in intercepting smuggled people (also Chinese) who were not clients of the organizer. But the question is, did Chinese corruption occur *in* the Netherlands as well?

Since few of the files contain corruption charges, it would seem that it occurred only sporadically. However, a former head of Internal Affairs (B9) pointed out that officials found guilty of human smuggling would most likely be prosecuted separately under the general heading of 'corruption'. Therefore OM-data would show official corruption records, but not connect them with specifics, e.g. drug trafficking, fraud or human smuggling. Furthermore, when evidence of corruption among officials is discovered during investigations of human smuggling, the matter is split off from the main investigation and handled under embargo by Internal Affairs as a separate case. Other officials interviewed stated that it is common for corruption to be dealt with internally, for example by removing people from their positions and giving them other responsibilities (B3, B4). In a roundabout way, three cases involving (alleged) Dutch corruption were uncovered through several interviews and newspaper clippings.

The first one involved an official of the Aliens Police (case 19). To make matters worse, he was one of the few Dutch 'Chinese experts' who could even speak

Chinese. It turned out that he had given information on internal procedures and approved residence permits that otherwise would have been turned down. In the end, he was not prosecuted, but forced to take early, dishonorable, retirement.

The second case also involved an official from the Aliens Police (case 26). After being passed over for a promotion and given a less interesting job, he decided to make some extra money by helping illegal aliens obtain residence permits at a fee of 3,000 or 4,000 euros per permit. His earlier contacts provided a steady flow of requests for residence permits. The prosecution stated that from 1996 to 1999 he had helped at least 20 people gain unlawful entry into the Netherlands. Most of his clients were Turkish and Moroccan, but there were also a few Chinese. Sometimes he would tamper with the central registration, at other times he was observed advising Chinese couples how to fake a marriage in order to obtain a residence permit. He was fined and sentenced to five years (reduced to three years on appeal). When the prosecutor was asked if other people from his section had been involved and prosecuted, the answer was “no legal and convincing evidence has been found to do so”.

The last case involved charges of fraud against two Dutchmen working at the Dutch embassy in China (case 63). One official misused his authority and applied an incorrect procedure to get his Chinese girlfriend on a list of business delegates to the Netherlands. He was assisted by the other official, a Chinese expert. The court ruled it was a case of bad professional judgment, and since both of them had no prior convictions they were acquitted.

Establishing such proof sometimes appears to be difficult. E.g., during an investigation, the main suspect made a telephone call to an unknown person. The suspect asked if he was a translator at Schiphol airport, which he confirmed. She then introduced herself and wanted to know if he had recently translated for a group of intercepted Chinese. This was indeed the case. She asked if she could be posted on the proceedings and promised him some ‘tea money’. The translator appeared glad to oblige: “we are all Chinese and have to help each other”. Although the investigating team took this very seriously, in the end no prosecution followed because no person could be identified as the translator in question (case 9). One other difference between suspecting something and lawful, concrete enough proof can be found in case 28. Telephone interceptions pointed out that a suspect in the Netherlands was talking with an unknown person in Zhejiang about an unknown person in Shanghai who had a ‘good relationship’ with a Dutchman working at the Dutch consulate. For a little fee, applications would be less cumbersome. Further conversations on this matter were not recorded and hence no action was taken (case 28).

Although there is no concrete evidence of other incidents of corruption in connection with the Dutch embassy in China, the Court of Audit indicates that the Beijing mission has had serious integrity problems (AR, 2003: 39). The embassy is also known to have illegally charged an extra fee of 11 euros for “sending faxes to The Hague” in order to expedite visa applications. The applications were not actually faxed. The fee was merely a way of generating extra cash, which was used, for example, to put in a swimming pool at the ambassador’s home (Meijdam, 2003). Needless to say, this would suggest that the extra fax fee had

been charged very frequently. This raises the question whether the financial interest was deemed more important than the interest of conducting a thorough examination of the application's validity. However, no criminal prosecution was initiated, although the Ministry of Foreign Affairs now admits, years later, that "at the time embassy staff contravened the rules by charging extra fees for expediting visa applications" (Trouw, 2004).

5.2.9 Supporting personnel and others

Supporting personnel are typically found in smuggling cases involving more than three defendants. These are people who are willing to do small jobs for a few hundred euros. For example, a Turkish organizer was able to register a company and a lorry in the name of a young Dutchman. This person had debts and was willing to sign a few papers without knowing what he was involved in.

Another form of support is interpreting. Two defendants were the only ones in the smuggling group who spoke German and English. From time to time, they were therefore asked to rent a safe house or contact smugglers of another nationality. They were paid a small fee for their services.

In nearly every case, people are hired to transport the migrants within the Netherlands. Theirs is not to be compared with the role of the transporters. The distances are usually small and there is virtually no risk involved because there are no border controls to be avoided. For example, a transporter takes a group of migrants to the Rotterdam railway station, where he hands them over to the 'collector', who in some cases is also the enforcer at the safe house. The transporter leaves and the collector takes the migrants to the safe house. They travel by foot, tram or car, depending on the distance. Conversely, right before a journey begins someone takes the migrants from the safe house to, for example, the airport where a transporter takes over. The transporter then attempts to get them across the border. The average fee for picking up and dropping off migrants is ten euros per person (cases 6, 9, 23 and 29).

In many cases, the organizers and transporters also carry out supporting functions themselves. For example, an organizer was phoned by another smuggler because the illegal migrants staying at a certain safe house were hungry. The organizer instructed the smuggler to buy noodle soup. The enforcer replied that he had already done that, but the migrants wanted something else to eat. He wanted to know what he should do. This angered the organizer, who started to swear. In the end, though, the organizer gave in and both the organizer and the smuggler were seen buying large quantities of fruit and vegetables at the market (case 9).

None of the people in the OM-data query had exclusive specialist knowledge on asylum procedures. On the contrary, all the smugglers seemed to be knowledgeable about asylum procedures, even those of different countries. For instance, an organizer discussed with a transporter the problem of a 17-year-old boy who wanted to go to America (case 9). Being of such an age might qualify the boy for the much-coveted special unaccompanied minor asylum status in the

Netherlands. However, the client did not want to stay in the Netherlands. He preferred to join his family in America. Because he was underage, the smuggler was afraid that the usual plan would go wrong. Normally people fly to the United States and claim asylum upon arrival. Afterwards the smuggler would arrange for someone to turn up and claim to be a family member. The asylum applicant would then be released and was free to go. The problem in this case was that the boy would be kept in detention because he was underage. The smugglers knew this, and therefore tried to obtain an adult passport. This knowledge was probably derived from experience; an earlier smuggling attempt with a small Chinese woman had failed. Although she was 25 years old, she looked very young (even to Chinese eyes). When she arrived in America and claimed asylum, the US officials believed she was an underage victim of human trafficking and therefore kept her in special detention. She was locked up for months (for her own protection...), while others in her smuggling group were released within a short period of time and started making money by working illegally. Furthermore, it does not require much specialist knowledge of asylum procedures to advise illegal migrants to ditch their passports and claim asylum when something goes wrong. It is well known that the Dutch government finds it difficult to repatriate Chinese people who have no passport (see chapter 8). In addition, some of the places where asylum seekers are housed while awaiting the decision on their application provide Internet access. Considering the workings of social capital, what better way is there to keep the home front informed of changes in procedures?

There is also no evidence of recruitment in or infiltration of legitimate businesses and institutions. The smugglers merely make use of the legal opportunities available to them. For example, international courier services are used to dispatch passports. Smugglers book flights with ordinary travel agencies. They never have to bribe travel agents or establish agencies themselves. Smugglers simply choose a particular agency because it is nearby or it employs Chinese staff. At most, these companies might start to wonder about certain clients who book trips very regularly and pay cash (case 73). In an official statement, a photographer told police that, now that he had been asked, he did indeed find it odd that a certain Chinese person came to his studio every week with groups of five or six other Chinese people to have passport photographs taken (case 9). But asking questions might have led to a loss of custom. Lorry drivers are approached if they are interested in smuggling migrants. Some of them agree, without their bosses knowing. Smuggling migrants in the lorry of company X therefore does not equal the involvement of this company but merely the involvement of the individual lorry driver. Only one exceptional case involved the establishment of a transporting company with the sole purpose of facilitating human smuggling. Furthermore, this was carried out by Turkish and Dutch defendants, not Chinese.

It is also striking that no money launderers or underground bankers were found in any of the cases. Only one defendant was accused of money laundering, but there was actually very little to the case. He had merely set up a one-off 'loan back' structure via his father in China in order to buy a house (case 9). In addition, it is not uncommon for legal channels to be used in smuggling operations. For example, money is transferred to China legally from the Netherlands by way

of the Bank of China in Luxembourg (case 9). Maybe there is little need to launder money in the Netherlands because it seems a great deal of money does not leave China but is rather invested there in real estate (B3).

Some files, however, suggest that professional service providers abroad are involved in smuggling operations. In two high profile cases, Dutch ethnic-Chinese smugglers had struck a deal with interpreters and lawyers in the UK and the US (cases 9 and 30). These professionals were told when and where to expect the arrival of illegal Chinese nationals. At the same time, the people to be smuggled were instructed and given telephone numbers to contact certain law firms once they had arrived at their destination. These law firms would then handle their asylum cases. For instance, when the smuggled Chinese arrived in America, they disposed of all their documentation and applied for asylum at the airport. Because of American asylum practices, detainees could be released on bail if they had friends or family to stand bail for them. The American law firm wrote hundreds of bogus letters allegedly from families who wanted to stand bail. As a result, the smuggled people were able to leave the detention centers, were picked up by the lawyers and were taken to safe houses. The ensuing American investigation resulted in the closure of the American law firm, the arrest of several legal representatives, and strict prison sentences and heavy fines (B3).

5.3 CONCLUSION

The files contain very little information about the smuggled persons, but quite a lot about the smugglers. Several different functions that can occur in Chinese smuggling operations were identified on the basis of the literature. This chapter examined whether these functions could be distinguished in the Netherlands. Some of the roles were filled by defendants in the cases reviewed and others were not. For example, no recruiters were found. This is due in part to the source material used. The ban on data exchange with China prevents us knowing precisely what happens there. On the other hand, the data in the files suggests that recruitment does not play a very important role. This is logical in view of the principles of social capital from a migration perspective (see section 2.2.4). Family and friends appear to influence the decisions migrants make about whether or not to have themselves smuggled to a foreign country. It is also common for family members and friends to put the potential migrant in touch with smugglers. Apparently, the Dutch smugglers do not have to go in search of clients. In a number of cases, the clients found them. Supposedly, migrants choose a particular country for specific reasons and therefore do not allow smugglers to take them just anywhere. Due to the nature of the source material available, however, there is no information on any social bonds between the smuggler and the smuggled people, or the living environment where the smuggled people end up.

Another function category that was not found in the research group is the local guide. This is to be expected because the function is irrelevant in the Netherlands. There are no sparsely populated, inaccessible border areas. Corrupt public officials appear to play only a marginal role in the Netherlands, which from a

Dutch criminological perspective is not a surprising conclusion. Previous research showed that Dutch investigating officers are not highly susceptible to corruption (Bunt & Kleemans, 2004: 205). Criminal groups in the Netherlands prefer to avoid detection than to bribe law enforcement officers (Huisman et al., 2003: 18). On the other hand, there are indications of corruption among government officials in China. However, again, because court records were used, little information could be obtained about this subject.

Furthermore, debt collecting is apparently not an important part of the smuggling process in the Netherlands. None of the suspects was engaged in this activity fulltime. One possible reason is that the smuggling fee is often paid in China (see chapter 7). Another reason could be that the Netherlands is often *not* the migrant's final destination. Most smuggling cases (especially the major cases) involve smuggling Chinese migrants *out of*, rather than *to*, the Netherlands. Furthermore, even when smugglers are caught bringing migrants into the country, that does not necessarily mean that the Netherlands is the final target country. The migrants or their smugglers often say that they were on their way to the UK. The migrants were accommodated in the Netherlands temporarily until the journey could continue. Since the Netherlands is not the target country, there is little need for debt collecting here.

Other functions were positively found in the OM-data. Twenty-two people were identified as organizers. This is a large number, but it should be kept in mind that the sample of smugglers is not random. Since the Dutch government targets precisely these people, it is not odd that this function is well represented. What practically all the organizers have in common is that they attempt to smuggle migrants *out of* the Netherlands to Britain or the United States. Organizers who only smuggle migrants *into* the Netherlands operate on a very small scale. Furthermore, the organizers are not "distant masterminds", but are constantly involved in the day-to-day activities (Kleemans & Van de Bunt, 2003).

The role played by women is striking. Although this was not listed as a separate characteristic for a certain type of organization in chapter 2, traditional ideas about crime disregard the role women can play (Inciardi, Block, & Hallowell, 1977). Members of triads (or the Italian Mafia) and other key figures in organized crime supposedly are, by definition, always men. In this context, the only roles available to women are those of a supportive nature or of the victim. However, several women acting as organizers were found in the research group. No explanation was found for this phenomenon. The importance of women acting as organizers is certainly not a Dutch fluke. For instance, the 1993 Golden Venture incident in America (see introduction) was allegedly carried out by a woman arrested in 2000 (Kyle & Liang, 2001; Morse, 2001). It is a powerful reminder that in any study on organized crime (as in other fields of study), women should certainly not be overlooked.

A few individuals were identified as enforcers. This function is not always necessary in small-scale smuggling operations, perhaps because smugglers and clients are connected through family networks. On the other hand, in large-scale smuggling the social distance is correspondingly greater between smugglers and migrants. In such cases, migrants are often denigrated by being referred to as

piglets or ducks. They are fed poorly and large groups of them are housed in small apartments (safe houses) while they wait for their journey to continue. Enforcers, often illegal migrants themselves, are deployed to maintain order.

The role of transporter is the most common. In the Netherlands, Chinese migrants are transported by air and by road. There are no cases of migrants traveling exclusively by sea from China. There is a large number of routes for illegal migration by Chinese nationals. Every available opportunity is used to reach the West. This results in what at first appear to be odd movements in the journey, but this often indicates that the smuggler was able to arrange visas for particular countries. There is an important difference between (semi-)legal travel and clandestine travel. (Apparently) legal documents are used in (semi-)legal travel. Transport proceeds through normal channels. In this method, ethnic Chinese transporters nearly always accompany the migrants. There are various reasons for this. With such an open form of smuggling, the migrant must be well-instructed and prompted when crossing the border. After a successful crossing, the escorts confiscate the passports for reuse. It is not always clear how the smugglers obtain the documents. In some cases, the services of document vendors abroad are engaged, but the files contain no further information about this matter. In other cases, the smuggler purchases identity documents from non-Asian forgers in the Netherlands. But the smugglers are just as likely to use their own passports, or those of friends or family members.

When no identity documents are used, the journey has to take place in secret. The geographical location of the Netherlands allows for land travel the whole way. For example, migrants cross the border between Jilin and Russia (legally) and take the train to Moscow. From there they proceed by train, bus or car and travel through the Czech Republic and Germany to the Netherlands and beyond. Most of the non-Asian transporters are involved in such road transports. They transport groups of Chinese migrants in small or large lorries or vans. These groups can consist of dozens of migrants. However, there are also some Asian transporters – usually Vietnamese – involved in road transport. They carry groups of migrants from the Czech Republic to the Netherlands via Germany. The route from the Netherlands to Britain is usually covered by Dutch and British drivers.

However, identifying different functions does not mean that tasks can always be clearly separated and rigidly defined. Individuals can play more than one role. The most obvious example is organizers picking up their clients from the airport or arranging supplies for the safe house. The next chapter addresses how smugglers coordinate their activities.

6 Cooperation

6.1 INTRODUCTION

The previous chapters contain information about people tried in the Netherlands for smuggling, the functions these defendants fulfilled in the smuggling operations and in that respect the manner in which smuggling occurs in the Netherlands. However, no information was included about how the smugglers are organized. Several characteristics that can help to answer this central question are listed in section 2.3. This chapter will address the first two, namely the durability of the cooperative ties and the extent to which an entire smuggling process is centrally controlled.

When smuggling operations are arranged by bureaucratic groups, it is plausible that the smugglers form fixed working relationships with the same people, under the umbrella of a centralized coordination body. When smuggling activities are carried out through more loosely organized social networks, the cooperative ties are more likely to be of an ad hoc nature, without central management. Of course, smuggling operations arranged by individual friends or family members do not involve smuggling groups and will therefore lack central coordination. However, this last approach cannot be adequately examined in this study because of the distortion caused by the research data.

6.2 LOGISTICS AND GROUP SIZE

In their research into organized crime in the Netherlands, Kleemans et al. said of human smuggling that “the logistics of the illegal activities have a bearing on the structure of the cooperative ties involved” (Kleemans et al., 1998: 38). Those who have easy access to the required documentation (e.g. falsified passports) are able to travel with regular airlines. The smuggling process can therefore remain relatively small-scale. By contrast, those who do not have access to the required documents are forced to transport people over land in a clandestine fashion. This complicates the logistics process. More support personnel are needed en route, such as drivers and safe house caretakers.

For the most part, the empirical data supports this logistical point of departure. In interviews, Chinese nationals and investigators alike referred to the existence of simple smuggling methods involving just a few people. For example, a certain manager of a Chinese company registered in the Netherlands invited people from the People’s Republic of China to come to the Netherlands for business purposes once or twice a year. The Dutch authorities granted visas to these people on the basis of the invitation. However, this example falls within the realm of human smuggling because, unknown to the government, the manager charged a few thousand dollars for the invitation and the ‘businessmen’ did not leave the Netherlands after the visa had expired (A2). In another simple method, Chinese

persons who had been granted Dutch nationality sent their Dutch passport by post to a family member in China, who used it to enter the Netherlands as a 'look-a-like' (B4, B7, B14, B18). A marriage of convenience is another simple way to enter the Netherlands. In one such example, a Dutchman stated that he had been asked by a Chinese acquaintance to marry a relative from China. When she acquired Dutch citizenship after three years, they divorced. The Dutchman earned 7,500 euros (which, to be safe, his Chinese partner paid him in yearly installments of 2,500 euros) and the Chinese side of the family paid all the expenses (case 28).

Although all the interviewees were familiar with these simple forms of smuggling, very few examples of these methods were found in the research group. It is said that such cases are too small-scale to attract the attention of the investigative agencies (B3). As long as these types of smuggling are organized only once or twice a year, they go unnoticed. The Dutch government is unlikely to be suspicious providing the aforementioned company manager does not invite too many people a year to the Netherlands. But even when suspicions do arise, it is difficult to get convictions for human smuggling in such cases. If the prosecution knows of just one incident, it will be difficult to prove there was a profit motive.²⁴ The aforementioned manager would testify that he acted in good faith, and that his trust had been betrayed when the businessman he had invited did not return to China. Those who lend out their passports are also difficult to prosecute. They can easily cover their tracks by reporting the passport lost or stolen when the authorities discover a migrant attempting to enter the Netherlands as a look-a-like. Marriages of convenience are also difficult to prove, especially when the individuals involved have actually lived together for some time. That is why the case described above was ultimately not prosecuted and why, in another instance, a Dutch woman suspected of marriages of convenience between 1982 and 1999 was still able to marry a Chinese man four times (case 28).

In small-scale cases, the only risk is that the smuggled persons will end up talking to the police. However, in these forms of smuggling the social capital bonds will certainly play a role. When the smuggled persons and the smuggler are acquaintances or even relatives, the former are unlikely to report the latter to the authorities. The prosecutor therefore has to weigh the pros and cons. Because small-scale smugglers act only once or twice a year, it is simply too costly to initiate a long-term police investigation of which the outcome is fairly uncertain. The Public Prosecutor has to believe there is enough evidence to prosecute under Article 197a (human smuggling). In practice, this means that the smuggling incidents that result in prosecutions are those that almost certainly involve more than one individual. Table 2 in chapter 4 indicates that 60 smugglers in total were involved in just seven cases with six or more defendants. However, the file documents also show that in nearly every case with only one or two defendants (96 defendants in total) various other suspects or involved parties can be identified who were not prosecuted for various reasons (e.g. the Public Prosecution Service's lack of funds, capacity or time). Thus, it can be said that all the 88 cases

24. The OM-data set deals with the period 1996-2003, during which a profit motive was essential to establish human smuggling.

studied involved some form of cooperation. As a result, the focus of this study shifts more to distinguish between the hierarchical and network models than the migratory model.

6.3 TYPE OF COOPERATION IN THE NETHERLANDS

The files show that, in terms of logistics, the smuggling method or route used is not the determinant factor that defines the difference between large and small-scale forms of smuggling. It is not only the small-time smuggler who fraudulently uses a passport. Some large smuggling groups are equally likely to use clandestine border crossings as the look-a-like passport or business visa methods. Some arranged travel for their clients on direct scheduled flights (case 9, 28, 60). However, when such methods are used, there are significant differences between large-scale and small or individual organizers. First of all, the number of attempted smuggling operations is higher. A large-scale smuggler will attempt smuggling operations once a month or once every two weeks rather than once a year. Second, a large-scale smuggler has difficulty obtaining the necessary passports or visas. An individual smuggler can use his own passport. Large-scale organizers run into trouble trying to acquire the passports and visas needed for more frequent smuggling attempts, so they steal, alter (falsify) or buy passports on the black market. Third, the large-scale organizer usually attempts to smuggle more than one or two people at a time. Lastly, the files show that large-scale smugglers all smuggle people *out* of the Netherlands, whereas small-time smugglers are more likely to bring people *into* the country. Once again, social capital is a probable explanation. Small-time smugglers bring over their friends and family. As there is some form of social relationship between smuggler and migrant, they are more likely to stay together (at least at first).

In order to understand the degree of organization, the logistics argument holds more sway if we do not look at the methods of transportation, the route followed or time spent on the road, but at the number of people the smugglers are able to 'process'. The more migrants an organizer is able to bring into the country or smuggle through to other countries, the more people are systematically involved. Case 9 is a good illustration. The organizer boasted on the telephone that she was able to successfully smuggle 160 people a year (not counting failures) by plane to America. The investigation showed that this was no idle boast. On average she tried to transport 16 illegal Chinese a month. Because she handled such a large number of people, the smugglers involved in the Netherlands numbered at least 13, not counting her contacts in China, Thailand, America, Spain, France and Britain. These 13 people in the Netherlands took care of housing, food, transport, tickets, financial matters and even grooming to make sure that the people to be smuggled looked the part of worldly 'Japanese' travelers.

This brings us to another observation. Not only do organizers that are able to handle large flows of people have multiple people who help them, but they also tend to work with other nationalities. This occurred in all cases in which more than six defendants were prosecuted. A possible explanation lies in the number

of people who are smuggled on a monthly or weekly basis. Individuals or very small-scale organizers are able to handle everything themselves because they have to take care of only one or two migrants. The sheer volume of migrants often causes trouble for bigger smuggling operations. For instance, the actual physical transportation becomes problematic when more than 20 migrants are simultaneously transported to Britain. Such volumes of people cannot be hidden among the cargo of ordinary, unsuspecting lorry drivers, simply because that number of migrants takes up too much space. An obvious solution is to set up a transport company as a cover for human smuggling operations, but this strategy is very difficult to implement in reality. All kinds of problems have to be dealt with. For instance, how does one register a company, how does one book cargo or a journey to Britain, what is a reliable truck, where is parking permitted, how does a tachograph work, etc. Furthermore, there are several formal requirements for running a company and driving a truck, such as having the appropriate driving license, ownership papers, clearances for transport and paying certain taxes on ownership, etc. Chinese smugglers lack the inside knowledge that anyone involved in the transportation business has. To counter this problem the Chinese smugglers have to rely on the cooperation of lorry drivers. As this is not a common occupation among Asians in the Netherlands, snakeheads have to look outside their own ethnic group. Some Chinese smugglers therefore are dependant on people who are not ethnic Chinese for a quick turnover of their 'livestock'. Without the help of Western drivers the smuggling groups would be unable to transport as many people as quickly as they do. The cooperation between Chinese organizers, transporters, enforcers, Western truck drivers etc. is addressed in the next sections.

6.3.1 *Hierarchical*

When smuggling operations are arranged by bureaucratic groups, it is plausible that the smugglers work together over a long term in fixed combinations. The following statements based on the results of the file analysis show some truth in this proposition.

First of all, continuity was very common. In several major investigations smugglers were tapped and observed for a long time, sometimes for over a year. During that time many smuggling operations were attempted. In most attempts, the same individuals worked closely together and performed the same functions. It is therefore possible to distinguish separate smuggling groups. The changes that occurred were mostly a matter of convenience. For example, a wife took over her husband's smuggling operations after he was arrested. At first, her husband advised her from prison (during visiting hours or by telephone), but she quickly began acting autonomously (case 32).

Secondly, the continuity was probably reinforced through affective relationships like a shared family background. In case 23, for example, two brothers and a cousin worked together. In another case, two of the organizer's sisters abroad were involved (case 9). Married couples were also encountered (cases 23, 28, 31,

84 and 98). However, family ties within smuggling groups constitute the minority. The family factor is therefore not conclusive.

Thirdly, the smuggling groups tended to be ethnically homogeneous. Various nationalities occurred, but they were nearly always clustered by ethnicity. For example, there were clusters of Chinese, Dutch, British and Turkish suspects. The Chinese suspects within a smuggling group often originated from the same region, e.g. Zhejiang or Fujian. But a group from a certain province was also likely to include people from other provinces. Ethnicity transcended national borders as well. A Chinese smuggling group could also include suspects from, for example, Singapore or Hong Kong. However, no Chinese smuggling group included non-Chinese. Or for that matter, no European smuggling group included Chinese.

Fourthly, the distinctive groups were highly concentrated geographically in the Netherlands. There was remarkably little geographical spreading of suspects in the same smuggling group. They tend to live in the same city and/or the region immediately around that city. For example, nearly all the suspects in the major criminal cases in Eindhoven, Rotterdam and The Hague live in Eindhoven, Rotterdam or The Hague respectively.

Fifthly, it should be noted that the smugglers also maintained stable contacts with outsiders who were not members of the smuggling group, e.g. Chinese travel agency owners or Dutch lorry drivers. Over a long period of time, the same people were asked again and again to book trips or transport migrants.

Lastly, finances very likely helped to seal the bonds that hold the group together. A characteristic of the smuggling groups is that the organizer manages the money. The organizer pays the other suspects for certain services and can therefore be placed at the top of an organization. This in turn leads to the assumption that the organizer issues orders to the other suspects, who are given specific tasks to perform. Someone takes care of the safe house, another drives the migrants to the airport or delivers them to a Western truck driver. Suspects with special skills such as the ability to speak English or German (rare skills in Chinese smuggling groups) serve as liaisons between Chinese and Western transporters for a small fee. Approximately one quarter to one half of the suspects are unemployed or on benefit and see human smuggling as a means of earning extra money. As shown in chapter 5, the fee for transporting migrants is often calculated per job. In two cases, it was even observed that the organizer paid out fixed monthly salaries (cases 29 and 98). Sometimes a couple hundred euros extra in 'pocket money' was added to that. In one case, the smugglers even talked about being on the payroll of 'our company', or the 'association' (case 29).

It should be noted however, that such terms or the existence of smuggling groups do not imply that they correspond to the classic definition of triads. There is no evidence to suggest that members of these groups use triad names, swear allegiance to one another or practice initiation rituals. Furthermore, triadic organizations (whatever their form) in the Netherlands are often linked to the 14K from Hong Kong or the Ah Kong from Singapore (Bovenkerk & Fijnaut, 1996). But these two nationalities constitute only a minority in the smuggling cases (see table 11). Analysis of the court files also show people from these nationalities

often in supportive functions, not in positions of power. And even more importantly, triads would probably have a hard time tapping into the smuggling market as most migrants come from Fujian and Zhejiang, not Hong Kong or Singapore (see also Zhang & Chin, 2003).

As further evidence of the hierarchical structure, during interviews with the police various suspects stated that they were low in the hierarchy and were given orders. Refusal was supposedly not an option. For example, one Chinese transporter stated: "If you refused, you would be beaten up or get into trouble" (case 98). Some of the suspects were very anxious during the interview. Although at first they made incriminating statements against some of their fellow perpetrators, their whole demeanor changed when they heard the name of an organizer. For example, one police officer reported the following:

"While discussing the topic [an organizer] the suspect became very nervous. He was now keeping his eyes averted from us and stared at the ground. The suspect kept sighing deeply, his eyes teared up, his whole body was shaking and he lit one cigarette after the other" (case 98).

The suspect stated that he preferred to go to prison than make any statements about the organizer. Talking about the organizer would be like signing his death warrant.

External, non-Chinese suspects also indicated that they felt strongly pressurized. Dutch drivers, for example, stated that they had wanted to quit after an unsuccessful transport, especially because they had been placed on the list of suspects by the British border control and were therefore no longer permitted to enter Britain. Their Chinese contacts pressured them to continue and recruit other drivers (case 15). This behavior suggests that the groups formed around non-Chinese nationalities are subordinate to a Chinese group.

The fear observed both inside and outside ethnic Chinese smuggling groups is not really surprising. Violence did occur in the smuggling world, as could be glanced from section 4.2.3. In addition, there are also other incidents that are not found in the charges. These are absent for lack of evidence or in some cases, the known perpetrators are not charged because victims or witnesses refuse to cooperate. Interviewees from the Criminal Intelligence Unit (CIE) and other investigators familiar with the Chinese underworld were able to mention a few examples: due to mistakes made by a minder several migrants ran off before they had paid the fee for their passage. The minder was held responsible for the financial loss and was ordered to pay compensation. When he failed to pay, he was kidnapped, tortured and left for dead (B7, B8). In another smuggling group, a disagreement over money between an organizer and a member of the supporting staff led to a serious assault. To pressurize the victim, her baby was forced to swallow half an XTC tablet (B3). In yet another case, a group of men allegedly beat a minder with a hammer among other things to show him who was boss (B7, B8). It is therefore not surprising when some interviewees believed it was a strict command structure that even culminated in three murders (cases 23 and 32). In both cases, an organizer ordered the murder of a fellow smuggler because of a dispute that spi-

raled out of control. At one time, a friend of a victim who happened to witness the event was also silenced. The organizer then ordered members of the smuggling group to get rid of the bodies.

All things considered, the evidence strongly suggests a hierarchical structure. There are smuggling groups that operate with a fixed complement of personnel for long periods of time, maintain a division of tasks, clustered by ethnicity, geographically limited to one specific location and do not avoid using violence. However, some particulars can also be viewed in a different light.

6.3.2 *Network*

The existence of fixed smuggling groups seem a contradiction to a network approach. After all, the network was supposed to be flexible and ad hoc. However, the observation of group cohesion is by itself not necessarily in conflict with the network approach. Familial or ethnic bonds can be seen as affective relations, which of course will ensure cohesion (Bruinsma & Bernasco, 2004: 81). Such affective relations are very prominent among Chinese human smugglers. It would therefore be a mistake to merely view a network as a loose collection of individuals.

The files show that smuggling groups make use of outsourcing of certain tasks like physical transportation. In the hierarchy model, it would be easy to think that the Chinese group dominates external individuals (or groups). But in the network model, the one does not necessarily dominate the other. One telltale sign is that these external contacts are not exclusively linked to one specific smuggling group. It appears that external parties offer their services to several people or groups. Take for example a Vietnamese transporter living in Germany who had two prior smuggling convictions (case 18). He had been convicted for smuggling Chinese people and for smuggling Iranian people into Germany. He did not belong to a Chinese-Vietnamese smuggling organization in the first instance, nor did he belong to a Turkish-Vietnamese smuggling organization in the second instance. He just worked as an independent contractor. In another case, a Dutch group transported Chinese migrants for an ethnic-Chinese group on one occasion and narcotics or duty-free cigarettes for Turkish clients on other occasions (case 15). Once the group completed the job, there was nothing to link them to the client. The fact that Chinese smuggling groups in the Netherlands cultivate such relationships with external parties over a longer period of time is not inconsistent with the network structure. In the end, the smugglers will favor the path of least resistance. Contacts that do what is required adequately will be used over and over again.

Furthermore, when interviewed by the police, suspects of course try to downplay their own role above all, so their statements about a layered hierarchy sometimes have to be taken with a grain of salt. More importantly, the tapped conversations and police observations do *not* consistently paint a picture of a strict hierarchy. The relationships within nearly every group tend to be loose and fairly comradely. The suspects visit each other's homes or go to casinos or (Chinese)

clubs together in the evening. For example, the police Observation Team saw an illegal alien who worked as an enforcer at a safe house repeatedly dining out with the organizers (case 29). The same transporter who was quoted above saying he was afraid of being beat up also made other statements. He stated that socializing with the organizers, who paid for everything, “generated a kind of friendship and at the same time a kind of moral obligation” (case 98). When asked whether he had been forced to do certain things, he answered: “not actually forced, but I felt a moral obligation to do things for them because they had done so much for me” (case 98). There are no known cases in which a suspect got into trouble for refusing to fulfill a request from the organizer because it was inconvenient.

Nevertheless, violence did occur between individual smugglers, as in the aforementioned cases of assault and murder. However, violence is not a unique characteristic of hierarchical organizations. It is equally likely to occur in a network setting. Moreover, the circumstances of the aforementioned murders were actually more banal than they first appear. In one case, the organizer was actually really frightened of the employee he eventually killed. This man had a reputation for violence and was blackmailing the organizer. The situation came to a head because he demanded more and more money and began threatening to use physical violence against the organizer and his family. It was not the organizer’s wish to impose his dominant position on anyone, but he feared for his life and decided to preempt the blackmailer. In the other murder case, the perpetrator discovered that the victim was having an affair with his wife. He was so angry that murder seemed to be the only solution. During a police interview afterwards, the perpetrator said that he still hated the victim. “It is even so bad that I could dig him up and smash his bones to bits with a spade” (case 32). This was not a professional hit, but an interpersonal problem that had gotten completely out of hand. The other violent incidents described above (and a few others not mentioned here) are thought to have occurred within the same smuggling group (B4, B6). This suggests that violence is an exception rather than the rule. In addition, the investigators suspect that the abuse was not carried out by members of the smuggling group, but was ‘outsourced’ to third parties. This would be consistent with the blueprint of criminal networks. However, this supposition could not be tested because the perpetrators were not mentioned in the files.

Still, relations between smuggling groups are usually characterized as good. Organizers from different groups telephone each other and dine out together (cases 9, 30 and 98). In one intercepted telephone conversation between organizers, they said they needed to support each other because in the end their objective was the same, namely to earn money smuggling Chinese people (case 9). Problems are usually resolved through consultation. It is highly exceptional for groups to cause each other harm (see also section 7.4).

In short, the existence of cohesive and fixed groups do not rule out a network approach. Affective relations will enhance durability. When an outsider suffices, he will be used again and again. Furthermore, the relations within and between groups of smugglers seem everything but strictly hierarchical. Thus far, however, only part of the evidence (the Dutch situation) has been examined. It is necessary

to look at the wider international context in order to better consider the suitability of a hierarchical or a network approach.

6.4 TYPE OF GLOBAL COOPERATION

Another factor that can indicate the difference between a hierarchical organization and a network is whether or not the entire smuggling process is centrally managed. An incredible amount of logistical and organizational effort goes into smuggling, for example, 20 people a month from China to Britain. How does the smuggler find 20 reliable migrants each time? Finding 20 people who want to migrate is not a problem, but how does the smuggler know for sure that the 20 have the ability to pay (Zhang & Chin, 2002: 76; Zhang & Gaylord, 1996: 7)? The migrants then have to be brought to the West. If the journey takes place over land, it will take weeks if not months. During the operation, the migrants have to be cared for, fed and housed. And the smugglers are not dealing with only one group of migrants who started out in September, for example. Other groups that started out in the months previous or started later will be en route at the same time.

Furthermore, as soon as the migrants begin their passage, the 'fog of crime' comes into place. Unforeseen circumstances can interfere with even the best laid plans. Smugglers act on incorrect information and lose control of the process. Here are a few examples. A safe house in Moscow with 30 illegal migrants had to be evacuated suddenly because the neighbors complained about a leaking pipe and the housing inspectorate was going to come round (case 23). In another case a passport supplier died in a traffic accident (case 9). A migrant became gravely ill and had to be taken to hospital (case 6). The files show that every time, the smugglers have to act quickly to prevent discovery. To manage all these problems, each smuggling group concentrates on just one part of the journey. As stated above, several different smuggling groups operate along side each other in the Netherlands. The files indicate that the same situation exists in other countries. Similar to the situation in the Netherlands, where several different smuggling groups can be identified, there are different organizers with several people working for them in the Czech Republic, France, Britain, China, etc. It is the cooperation between these groups spread out over different countries that makes large-scale human smuggling possible. Taking a broader perspective and examining the transnational interaction between these groups can reveal more about the dominant type of cooperation than looking exclusively at the cooperation within a single group.

6.4.1 Hierarchical

The hierarchy model assumes that the entire journey from China to the West is coordinated centrally. Different smuggling groups are ultimately responsible to a *snakehead di tutti snakeheads*. This supra-organizer ensures that the migrants are helped to reach their final destination by a chain of smuggling groups in different countries. In China it is claimed that such individuals are situated in the West,

out of the reach of the Chinese police (Interpol Beijing, 2001: 23; Zhang & Chin, 2002). According to Western sources, such individuals are situated in China, and that is how they manage to elude the Western authorities (Shelley, 2003: 243). Several Dutch government officials also hold the latter view. The head organizer is said to be situated in China, not in the Netherlands (B22). The fact that the Dutch-based organizers take on assignments is considered evidence of this theory. Through telephone contact the Chinese smugglers in the Netherlands are notified, for example, that new groups of smuggled people are on their way. Destinations are sometimes adhered to and sometimes altered. In one case, a migrant decided not to continue his journey to Britain following a telephone conversation with an organizer in China. This organizer informed the organizer that the migrant was allowed to “disembark” in the Netherlands (case 98).

Financing is another important reason for smugglers in the Netherlands and in China to consult with each other. While most migrants claim they had to pay 20,000 euros for their passage to the West, the Dutch smugglers earn a great deal less, for example about 5,000 euros for the Netherlands–Great Britain route. And various expenses have to be paid from that fee. For example, the organizer has to pay the Dutch transporters in cash. That can cost up to 1,000 euros per smuggled migrant, so he has to have a considerable amount of cash on hand. In addition, the other members of the smuggling group have to be compensated, cars or safe houses rented, food bought, etc. If the journey is not carried out in a clandestine fashion, passports and airline tickets have to be purchased. The net profit for the Chinese smuggling group is therefore closer to 1,000 to 3,000 per smuggled person (although because smuggling groups bring in a high volume of migrants each month, the total profit is probably considerable). In one exception, an organizer in the Netherlands was paid 28,000 euros per smuggled person, but only because, instead of Great Britain, she offered passage from the Netherlands to the United States, which is a much sought-after final destination (case 9).

From the hierarchical perspective, it is plausible to speculate that a large central organizer in China determines the smuggling fee and compensates the smuggling groups accordingly. However, there is neither proof for or against this theory. During the research period, financial matters were either not investigated, or there was only a cursory examination. As a result, it remains unclear how the organizers arrange their finances. The only certainty regarding financial matters to emerge from file study is that the migrants frequently pay their smuggling fees in China (this topic is addressed in detail in section 7.3). If and how the money finds its way to the smugglers in the Netherlands remains unknown.

In short, taking the entire smuggling route into consideration, it seems obvious that there is central coordination. Because a smuggling journey is often split up in different legs, someone has to keep in control. On the other hand, the evidence for this assumption is less convincing than may at first appear. An alternative explanation is set out in the discussion of the network model below.

6.4.2 Network

In the network model, each group manages only part of the smuggling operation. The lack of central coordination is what distinguishes the network model from the hierarchy model. The Chinese groups in the Netherlands are not subordinate to any other Chinese group abroad and no Chinese group abroad is subordinate to any group in the Netherlands. According to the network model, the fact that an organizer is notified that a group of migrants is on its way to the Netherlands is not necessarily evidence of a hierarchical relationship. Nor is the fact that a migrant received permission to halt his journey in the Netherlands. It is just a change in one business agreement.

In order to better understand this line of reasoning, we must examine the smuggling process more closely. Let's start with a simple example, derived from a tapped telephone conversation between two organizers. The first organizer said that if the other organizer could get migrants into Canada, she would get them into the US. Each would be responsible for one part of the process. At no time would either party have complete control of the operation (cases 9 and 98). They acted autonomously, but it is their mutual cooperation that leads to the establishment of smuggling routes.

The same principle applies to more extensive operations. In a tapped conversation, it was said that someone "will take the lead". In other words, that person would start the first part of the smuggling operation in China. Next, he sought others to carry out the following legs of the journey (case 28). Imagine that a smuggling operation involving the smuggling of 10 migrants from China proceeds via Moscow, the Czech Republic, Germany and the Netherlands to Britain. In China arrangements are made to get the migrants to Moscow, where they are taken over by another group, which gets them to the Czech Republic. A group in the Czech Republic then takes them to Germany and from there the migrants proceed to the Netherlands. Finally, the Dutch group smuggles them into Britain. At no point does any one of the groups involved have control of the entire operation from China to Britain. As soon as a group hands over its 'piglets' to another group, its task is complete and it is no longer involved. The group in the Czech Republic has no authority over the transport of the migrants in the Netherlands. Nor does the group in the Netherlands have any say over the transport from the Czech Republic. What is more, none of the groups are controlled by a separate, central group. This may appear to be somewhat illogical at first glance. Why is there no central management?

In reality, the network is not a simple chain structure with just one link in each country. A Chinese organizer in the Netherlands receives migrants from various organizers in China. This is illustrated by the statements made by an enforcer and seized accounts showing that not every illegal migrant who placed telephone calls home was charged the same telephone rates. Each organizer in China was charged a different rate (case 98). Information from intercepted telephone conversations also revealed, for example, that smuggling group A, a Czech based Chinese group, asked a Chinese group in the Netherlands to take six people to Britain. This Dutch group charged 5,000 euros a head. At the same time, the Dutch-based smuggling group provided transport services for another Czech

smuggling group, group B. The organizer of group B received a discount because he happened to be an old acquaintance of the Dutch organizer's brother. The Czech organizer from group B therefore paid only 4,000 euros for the same transport arrangements to Britain. This is an important finding because it shows that the smuggling group in the Netherlands worked for *different* organizers in China or elsewhere at the same time. The Dutch group is therefore not linked to one specific organizer in e.g. China, but offers its services to different parties.

Just as the Chinese organizer operates autonomously in the Netherlands, there are independent organizers in the other transit countries. The result is a complex stream of migrants. For example, four different groups in the Czech Republic passed on their clients to the same Chinese smuggling group in the Netherlands (case 9). To prevent confusion the migrants can be numbered. For example, numbers 12, 15 and 16 belong to smuggler A, numbers 24, 25, 26 and 27 to smuggler B, etc. A migrant's number is sometimes written on his hand in felt-tip pen (case 6). Meanwhile the smuggling group based in the Netherlands might receive people from Germany as well, or be approached independently by illegal aliens already residing in Europe (see section 5.2.2 on recruiters). While awaiting transport onwards to Britain, outsourced by the Chinese group to an ethnic Dutch smuggling group, all these migrants stay in a safe house together. They are split up upon arrival in the target country. According to testimony of one suspect, at the time of the failed Dover transport no less than 15 different organizers were having their clients transported simultaneously by a single Chinese smuggling group in Rotterdam, bringing the total number of migrants to 60 (case 98).

Because each smuggling group creates its own smuggling route and method, including foreign suppliers of migrants, this also becomes their secret recipe. The files show that organizers are careful not to reveal the ins and outs of its proprietary operation to others. From a network point of view, this makes sense. Other groups are basically its competitors and should be kept in the dark lest they try to copy the system and it then loses its unique value. For example, an organizer of one group warned the other members of his group not to tell the organizer of a particular other group who the contacts were in the Czech Republic. The organizer was afraid this group wanted to steal her route (B3, case 9). From the viewpoint of a central organization, it would probably matter less if smuggling groups along the route knew each other's processes. All would ultimately belong to the same organization.

However, although the organizers try to shield themselves from the outside world, they are less concerned about internal protection. From the files it appears that in most groups everyone knows who the organizer's special domestic and foreign contacts are. This can be seen as further evidence of loose internal relations, but from a network perspective it seems less logical. Theoretically, in terms of the social network model, the difference between an organizer and, for example, an enforcer lies in the contacts that they each have. The organizer is the one with the best contacts, the one who knows, for example, where to obtain passports. This knowledge makes him an organizer. However, in practice, this knowledge is often dispersed throughout the group. Once again, it is probable that affective relations within the group, as commented upon in section 6.3.1,

counters these theoretical separations between members. Among family and good friends, there is less incentive to keep secrets from each other.

In short, it seems that the network model is the best fit when applied to the entire smuggling route. There are no simple chain structures in large-scale operations. In reality, migrants enter the Netherlands via a complex set of channels, making it illogical to assume there is a central organizer. Still, the lack of information about certain financial aspects leaves one fundamental problem. It is evident that because the large smugglers in the Netherlands take care of just one part of the journey, they therefore charge a proportionate fee. The same probably happens in other countries along the smuggling route. A smuggler in the Netherlands charges a Czech organizer a few thousand euros for passage to Great Britain. The Czech smuggler probably charges his colleague in Moscow a certain fee for passage to the Netherlands. In turn the smuggler in Moscow will have charged an organizer in China for the transport to the Czech Republic. Through this principle the total amount a migrant has to pay is in the range of tens of thousands of euros. Since many migrants have the smuggling fee paid out in China, the parties involved have to reach agreement about how to divide up the money. However, without financial investigations, there is no way to know precisely how this is done. This gap of understanding therefore still leaves some room for the possibility that someone in China controls the money and allocates the appropriate sums of money to particular smuggling groups. Maybe the person who controls (?) the financial details, has more leverage than the others.

6.5 CONCLUSION

This chapter made a start in examining specific indicators to determine whether smugglers operate within a hierarchical structure or within more loosely organized social networks. It is important to point out that the migratory model was not addressed in this chapter. While interviews with smuggled people and investigators show that this form of smuggling is indeed common, it is difficult to investigate and prosecute. Consequently, the findings in this chapter apply only to larger-scale forms of smuggling.

The form taken by relationships within the smuggling groups is a question of interpretation. The importance of certain characteristics will vary from reader to reader. Assuming a hierarchical perspective, one might argue that the smuggling groups situated in the Netherlands operate in a fixed (ethnically homogeneous) composition for long periods. Within that structure, there is a hierarchy. The organizer assigns certain tasks and manages the finances. As a result, other smugglers in the group are dependent on him. In addition, the same people from outside the fixed group, such as Dutch lorry drivers, are employed over and over again. Because they indicate during police interviews that they are afraid of their Chinese bosses, they are deemed to be subordinate to the Chinese group. Although violence is not necessarily a defining characteristic of hierarchical organizations, it can be pointed out that some organizers have used violence to reinforce their internal dominance. In the Netherlands, therefore, it is not true

that several smugglers join forces only to arrange one passage and then part ways again. Furthermore, the so-called nodes are less important than the network theory would suggest. For example, two interpreters who served as the only contacts between Chinese smugglers and Western transporters had a very subordinate role. There is no evidence to suggest that they had a unique position within the organization or earned a great deal of money.

At the same time, it must be stated that the hierarchical structure is actually weaker than it sometimes appears to be. Organizers also carry out low-status tasks, such as shopping for food for the migrants in the safe house, driving them to the airport, etc. There are usually no strict forms of etiquette within the smuggling groups. Members go to restaurants and clubs together, celebrate each other's birthdays, etc. Affective relations will function to consolidate working relations. In some cases, there is a mutual family background. Most groups consist of people who share the same ethnic background. For example, most of the groups are ethnic Chinese, but a Turkish group and a Dutch group can also be identified. There is remarkably little geographical dispersion of suspects in the Netherlands belonging to a single smuggling group. Finances most likely help to reinforce the bonds within the group. Approximately one quarter to a half of the defendants is unemployed or living on benefit and see human smuggling as a means of topping up their income. Since the organizer pays cash for services, he naturally builds up a group of service providers. Furthermore, while a smuggling group may use the same external contacts regularly, this is merely because it applies the principle of 'if it ain't broke, don't fix it'. Moreover, these external contacts do not work exclusively for one specific smuggling group. They offer a particular service (for example, transport or passports) to anyone who is willing to pay for it. External parties take on assignments for a fee, but this does not make them subordinate.

An examination of the entire smuggling operation from China to the West, rather than just the Dutch smuggling market, more strongly suggests a network model. The hierarchical model seems logical at first glance, because the smuggling of migrants from China to the West can be viewed as a chain. Migrants are taken from China to Russia, from where they proceed through the Czech Republic, Germany and the Netherlands to Britain, for example. There is a smuggling group in each country that arranges passage to the next country. Every smuggling group is responsible for a particular leg of the journey. It is therefore plausible that the entire process is coordinated from one central point. But the chain scenario is actually too simplistic. There are several smuggling groups in each country, beginning with China. From there, various organizers send out groups of migrants on their way. An organizer in the Netherlands will therefore arrange passage to Britain at the request of different smuggling groups. Furthermore, migrants who are already in the Netherlands occasionally seek the assistance of a Dutch smuggling group independently. The variety in clients (migrants as well as other organizers) makes the existence of a central coordination less plausible. It is more logical to view the groups based in the Netherlands, and the groups situated in other countries, as independent service providers. The various international smuggling groups make use of each other's expertise and a smuggling route develops, without central coordination from above. Obviously, this form of inter-

national cooperation can persist for a long time. It can be assumed that smugglers prefer to tread their tried and tested paths than to seek new ones. In other words, as long as a contact is satisfactory, cooperation will continue. This is how fixed routes are created. New partners are sought only when necessary (for example, if a contact is arrested or cannot obtain tickets).

Paradoxically, the smaller smugglers are the ones most likely to maintain control over the entire route. It is possible for this kind of smuggler to oversee the entire process because it is so small-scale and the route and means are so simple. For example, they occasionally lend their own passports so that a migrant can book a direct flight from China to the Netherlands (A2). However, as stated in section 'logistics and group size' of this chapter, these forms of smuggling are scarcely found in the files, precisely because they are usually too minor to warrant prosecution.

Still, there is one large gap of information. It remains a great mystery how the organizer obtains the smuggling fee. The files reveal no information about this subject because it was not investigated.

7 Activities

7.1 INTRODUCTION

Two indicators pertaining to the organization of human smuggling were examined in the previous chapter, namely the durability of cooperative ties and the extent to which the entire smuggling operation is centrally controlled. But there are other indicators as well. As chapter two pointed out, the literature on human smuggling that tends to use a hierarchic perspective, assumes that the smuggling group is engaged in a range of different criminal activities. In this scenario, the smuggled people also run a great risk of exploitation. They may be forced into prostitution, theft or extortion or subject to other forms of socio-economic exploitation.

The literature on human smuggling that uses a network model, is of a different opinion. It is assumed that human smugglers are less likely involved in other types of criminality. A group is formed for no other purpose than to smuggle migrants. Individual smugglers may also be involved in the drugs trade, but that will be on their own initiative and cannot be deemed to be the policy of the entire smuggling group. Even in cases in which smuggled people are exploited this cannot be ascribed to the smuggling group as a whole.

In the migration model, there is no place whatsoever for a range of criminal activities. The smuggler merely helps a family member or friend enter the Netherlands. There is no connection with drug trafficking or theft; however, socio-economic exploitation does occur. The moral obligation that a migrant feels to repay his family or friends for their help can land him in an exploitative situation.

This chapter explores whether the smugglers from the research group can be linked with other criminal activities, such as prostitution, extortion and theft, the drugs trade and socio-economic exploitation of migrants. At the end of this chapter, we take a closer look at the most common financial schemes that the migrants use to pay their smugglers. For lack of a better term, this will be called prefinancing.

7.1.1 *Forced prostitution*

In the Netherlands, forced prostitution and sexual abuse among Chinese nationals is often associated with underage asylum seekers. For example, it is estimated that half the unaccompanied Chinese minors seeking asylum have worked as prostitutes (Venicz & Vanwesenbeeck, 1998: 33). Hoogendoorn states that underage Chinese asylum seekers who arrive at the asylum application center without having been sexually abused are considered fortunate (Hoogendoorn, 1999: 14).

However, the police have always claimed that there is no evidence to support this (IAM, 2001b). According to police officers and experienced vice detectives, the accounts of sexual abuse are false (B4, B6). They suspect that a story of abuse, linked to pregnancy, increases the prospects of obtaining a residence permit. One

police officer spoke of a different strategy. He knew of several adult female illegal Chinese migrants who had lived in the Netherlands for years. When they became pregnant, some of them decided to apply for asylum as minors. This made them eligible for free medical care, but also gave them a chance to obtain a residence permit (B17).

There was no evidence in the research group of minors suffering abuse. The files contain little concrete evidence of Chinese prostitution, let alone abuse. In fact, it comes up in only one case (case 3), which came to light when an illegal Chinese woman was arrested for shoplifting. At the time of her arrest, the shoplifter was working elsewhere in the country at a local sauna. She spent a few hours a day there and was able to arrange her own working hours. This was unlikely to be a case of forced prostitution; the sauna proprietor was acquitted of charges of human trafficking. The investigation showed no further connection with human smuggling. During her detention, she told the police that she had worked as a prostitute in Amsterdam. She said that she and a girlfriend had been asked by a Chinese man whether they were interested in working as prostitutes. The police managed to track down this friend and she confirmed the other woman's story, but said she herself had refused the work. She said that some Chinese women worked as prostitutes because they could earn money faster that way than by washing dishes in a restaurant.

In addition to the lack of direct evidence supporting a link with prostitution, there was no indirect evidence of smugglers forcing their clients into prostitution either. It was alluded to in only one case (case 9). In that case, the organizer (a woman) felt her client was taking too long to pay the smuggling fee. In order to bring pressure to bear, the organizer threatened to sell the client into prostitution. She did not say to whom. This remained only a threat.

It is plausible that a sexual relationship could develop due to the position of power that the smuggler has over the client. One of the smuggled people interviewed in Chin's research reported that after arriving in the Netherlands, a woman from Shanghai decided to have sex with her smuggler. For each encounter, USD 200 to USD 400 was subtracted from her smuggling fee. The woman was eventually allowed to deduct a few thousand USD from her smuggling fees (Chin, 1999: p. 91). However, no evidence of such practices was found in the research group.

In conclusion, based on the court files no connection can be made between smuggling and forced prostitution in the Netherlands.

7.1.2 Extortion

It is stated that some of the people smuggled into the country are recruited by the criminal organizations that bring them here (Bovenkerk & Fijnaut, 1996). They are forced to threaten and extort people in their own Chinese community in order to pay off their debts (Vogels et al., 1999: 124).

However, the files studied revealed no such relationships and it is therefore highly doubtful that there is a relationship between smugglers and incidents of

robbery or extortion. First, as chapter 4 stated, the smugglers have no criminal record of robbery or extortion. Second, the files show that the smugglers in the research group were rarely directly involved in robbery or extortion while they were performing their smuggling activities. In fact, there was just one case in which a smuggler committed extortion (case 101). It appears he was in financial trouble and committed the act of extortion in order to earn some cash quickly. The smuggling group as a whole was not involved. It is also worth mentioning that a transporter in one smuggling group attempted to extort money from his own organizer (see section 6.3.1), but this is obviously not the kind of evidence that shows a link between smuggling and extortion in general.

It is possible for smugglers to be indirectly involved in extortion and robbery. Police investigations of extortion incidents in the Chinese community often reveal that these crimes are perpetrated by illegal aliens and asylum seekers (B6). It is assumed that they commit these acts under duress from their smugglers. However, the research group provides no evidence to support this assumption. There is no information to suggest that smugglers ordered migrants to extort or rob a particular restaurant. Nor do any of the files show that migrants who had found work were forced to reconnoiter the situation at their place of employment and provide their smugglers with information about, for example, the location of the safe. Only one Dutch police investigation has ever been able to demonstrate this type of relationship (Beljon & Vaarkamp, 1993; LCIDO, 1996: 13). However, that investigation was conducted in 1993 and therefore falls outside the research period covered by this study. Consequently, it can be concluded that the smugglers who were tried in Dutch courts between 1996 and 2003 were generally *not* involved in incidents of robbery or extortion.

7.1.3 Drugs

Asian criminal organizations supposedly use the same routes, resources and methods to smuggle drugs and people simultaneously (Bovenkerk & Fijnaut, 1996; Schloenhardt, 1999). In the Netherlands, the Chinese were heavily involved in the import of heroin in the 1960s and the 1970s (B6, B7, B8, B11, B12, B17).²⁵ Since the 1980s, however, Turkish groups have taken over this trade. Today, the Chinese in the Netherlands are rarely encountered in the heroin trade.²⁶ Instead, they have shifted their attention to XTC. The Netherlands produces large quantities of XTC that is not only a lot cheaper than Asian XTC, but also of better quality. Chinese drug traffickers therefore buy Dutch XTC for a low price and sell it in Malaysia, Singapore, Thailand and China. In a reversal of roles, the Chinese drug importers from Asia have become drug exporters to Asia. However, some

25. This association gave the Dutch language the verb 'Chinezen' or in English 'Chinesing', the smoking of heroin vapors. In English-speaking countries this practice is called 'chasing the dragon'. Both terms reveal their Eastern origin (Grund & Blanken, 1993). Today 'Chinezen' is also used to refer to dining in a Chinese restaurant or getting Chinese take-away.

26. Some Dutch police analysts think heroin is still imported by Chinese nationals, but sold in France or Germany (personal conversations).

Chinese drug dealers are also involved in the import of certain precursors, such as ephedrine, which are required to make XTC. These chemicals are difficult to acquire on the Dutch market and are therefore smuggled in from Asia and Eastern Europe.

However, the court files provide no evidence of systematic links between the smuggling of drugs or precursors and the smuggling of Chinese illegal migrants. Drugs were not found in any of the intercepted human smuggling transports, nor did any of the investigations produce evidence of migrants carrying drugs to or through the Netherlands during their journey.

Some smugglers turn out to be recreational drug users. XTC tablets were found during several house searches of human smugglers. However, the quantity was too small to warrant suspicions of dealing. Only six defendants in the research group had previous convictions under the Opium Act (cases 9, 28, 32 and 97). Three of them were not Chinese and can be considered transporters. Sometimes they transported drugs for Turkish clients, and on other occasions they carried illegal migrants for Chinese clients (case 97). The three other defendants with previous convictions under the Opium Act were ethnic Chinese. There is no evidence that these people combined drug trafficking with their human smuggling activities. One individual attempted to bring cocaine into the Netherlands (case 29), but his role in the human smuggling operation was minor. Due to gambling debts, he had a smuggler's car registered in his name and in the past he had escorted a small group of migrants to Belgium by train for the same smuggler. Another person was involved in exporting XTC (case 32). As an organizer he also arranged transport for Chinese human smuggling operations. However, his contacts in the drugs trade were separate from his human smuggling contacts. In this case, too, the two activities did not overlap. Finally, the files show that one woman tried to help her boyfriend with his XTC business on her own initiative. This was separate from her involvement in human smuggling (case 9). The investigation team leader suspected that she simply wanted to try her luck at dealing pills (B3). Her contacts in the narcotics business were later examined in a separate investigation which resulted in several convictions.

A visit to the former Synthetic Drugs Unit (*Unit Synthetische Drugs* - USD) revealed a significant difference in profile between Chinese drug traffickers and Chinese human smugglers. The former often originate from Hong Kong, Singapore or Malaysia, are approximately 40 years or older, became naturalized Dutch citizens a long time ago and have a history of convictions under the Dutch Opium Act. On the basis of chapter 4, however, it can be concluded that most (and at any rate, the most prominent) ethnic Chinese human smugglers originate from the People's Republic of China, are approximately 30 years old, were recently naturalized and have few prior arrests, if any. To sum it all up, during the research period, Chinese human smugglers were only rarely involved in the drugs trade.

7.1.4 *Socio-economic exploitation*

Although the relationship between human smuggling and forced prostitution, drugs or forced robbery seems to be weaker than is often assumed, migrants can be subject to other forms of socio-economic exploitation. They have, after all, no status and are therefore in a marginalized position. Because they recently entered the country, they do not yet speak Dutch, have no permanent residence permit and are unfamiliar with the laws and regulations of the Netherlands. This means that they are often totally dependent on their employers, all the more so if those employers helped them get to the Netherlands (Sciortino et al., 1993). So what are the main occupations available to illegal immigrants?

A typical characteristic of the Netherlands is that there are virtually no Chinese sweatshops in the garment or leather industry, as there are in France and Italy for example. During the research period, there was just one case in the Netherlands involving a Chinese tailor (case 71), but the owner, originally from Zhejiang, was not involved in smuggling illegal migrants. He merely hired people who were willing to work for low wages. During two different inspections, legal and illegal Chinese migrants as well as illegal Sri Lankan migrants were found to be working for him. Instead, the Chinese restaurant sector functions as a chain occupation in the Netherlands that employs 50% to 60% of the Chinese working population (ACB, 1990: 14). It is known to the authorities that many Chinese restaurants employ illegal workers (B1, B3, B4, B6, B7).

However, none of the large-scale investigations showed a direct connection with illegal labor. There was no evidence that major organizers put migrants to work in restaurants illegally in order to skim off their monthly pay. But the large-scale investigations provide some evidence that inconspicuous restaurant owners could well be involved indirectly. Some restaurant owners had advance knowledge of family members or fellow villagers being smuggled into the Netherlands. They were in contact with the smugglers and asked when the migrants were expected to arrive. They would pick up the migrants, who would then probably go to work for the restaurant owner (cases 9, 23 and 29). However, there is no evidence that restaurant owners paid the smugglers a monthly fee for this service. As explained in the following section, the restaurant owner would usually pay the full amount to the smuggler, thereby eliminating the ties between the smuggler and the smuggled people. However, it should be borne in mind that under the working definition of human smuggling (Article 197a), these restaurant owners could also be found guilty of human smuggling. By giving migrants money and accommodation (in exchange for their illegal labor), these restaurant owners are giving the migrant the means and knowledge to stay in the Netherlands illegally. According to the Dutch Tax and Customs Administration, business owners who employ illegal labor are earning huge profits by not paying the minimum wage and wage taxes. When fines are imposed, they amount to tens of thousands of euros, the profit according to the tax authorities' 'conservative' calculation (cases 83 and 84).

Furthermore, theoretically, there is a significant chance that in the unorganized, small-scale smuggling cases migrants are exploited by their smugglers. Rea-

soning on the basis of the social capital principles, small-time smugglers are more likely to smuggle friends or relatives. This is widely acknowledged in the literature on migration. Successful Chinese businesspeople bring family members, friends and acquaintances over from China or Hong Kong to work in their business (Moerman, 1933; Moll, 1929; Pieke, 1988; Rijkschroeff, 1998; Tseng, 1983). The migrant receives little more than pocket money, if anything at all, in return. Since this study is largely lacking in small-time smuggling cases, the effect of such social capital principles cannot be adequately studied. The files only contained one such case. A restaurant proprietor brought his brother over from China. When he arrived in the Netherlands, the man began working, largely without pay, in his brother's restaurant. He described the end of his working day in his diary: "When I finished my arms were extremely swollen and my wrists were stiff. Then I had to wash up the kitchen utensils. At the end of the day, I was so tired that I went straight to bed" (case 23). But he accepted his plight and did not want to let his brother down.

In other words, no evidence was found to support the theory that smuggled people are subject to socio-economic exploitation by large smuggling groups. However, the social capital principles suggest that this type of relationship is likely to exist with small-time smugglers or people indirectly concerned. This could be inadequately tested due to the nature of the empirical data.

7.2 SMUGGLING FEE

From a financial angle, a partial explanation can be presented for the lack of a range of criminal activities. Both the hierarchical model and the network model assume that Chinese human smuggling is motivated by financial drivers. This was certainly the case with all defendants.²⁷ The smugglers talk about profits and losses, owing each other money and receiving payments. In the thousands of tapped telephone conversations, no motive based on idealism was ever discussed. One lawyer attempted to convince the appeal court that his client had acted out of Christian charity. However, this did not prevent the smuggler to turn his human smuggling operation into a profit-making business. In one tapped telephone conversation, he enthusiastically told a friend in China that he had earned over 100,000 euros the previous year (case 28).

The relationship that the smugglers in the research group had with their migrants was therefore financially motivated. In recent years, various studies have shown that human smuggling from China to the West is very expensive. The smuggling fee for passage from China to the US can vary between USD 30,000 and USD 60,000 (Kyle & Liang, 2001: 20; Morse, 2001; Wang, 2001: 350). Passage to Europe is somewhat cheaper at around USD 30,000 on average (Godfroid & Vinckx, 1999: 37, 63, 233; Vogels et al., 1999: 123). The Dutch court files also confirm that smuggling involves such high fees. The highest smuggling

27. Most smuggled people will also have been motivated by financial drivers, as the section on recruiters suggests. Nevertheless, the empirical source material on this subject is somewhat scanty to substantiate any conclusions.

fee recorded for the journey from China to the Netherlands was 30,000 euros (case 98) and the lowest was 15,000 euros (case 42). But how does a migrant pay such a large amount?

The prevailing (media) image is that a smuggled person plunges himself into debt to the smuggler. In that way the smuggled person is obliged to pay off his debt to the smuggler at a huge interest rate over a period of several years. Due to strict sanctions, these payment obligations are said to have far-reaching consequences. Some Chinese men are forced to become involved in crime (robbery, extortion), while women can end up in prostitution.

However, this is not an accurate reflection of the Dutch situation. The previous sections showed that smugglers did not exploit their clientele. Furthermore, this widespread assumption of debt bondage leaves little scope for the possibility of other financial arrangements. One common alternative method is 'prefinancing'. In line with the accepted views on smuggling, it is true that a smuggled person has to work hard for years to pay the sum of some tens of thousands of US dollars. There is, however, one crucial difference. That debt is often not paid to the smuggler or smuggling network, but to the smuggled person's own family/relatives or circle of friends. The money is raised in different ways. Some do this by borrowing from family. In such cases, the next of kin and the extended family are apparently financially secure enough to finance the smuggling. It is also customary for friends, neighbors or even local loan sharks to lend money at a certain interest rate. Alternatively, migrants are known to sell their houses or land. The important thing is the money necessary for the smuggling operation is somehow available *before* the journey commences. When the money should be transferred from migrant to smuggler is a delicate issue. How can the person being smuggled be sure that after payment he will actually be taken to the target country? And conversely, how can the smuggler be sure that after arrival in the target country the smuggled person will not run off, but will hand over the money owed?

Apparently, the migrant has a strong bargaining position. As a token of goodwill, he will pay about 10 percent of the total sum in advance. Family, relatives or friends see to the settlement of the remainder only *after* the migrant has arrived at his destination. Following a successful journey, the smuggled person contacts them by telephone and informs them that he has reached the country of destination safe and sound, and that the smugglers can be paid. A slight variation on this procedure is when the smuggled person telephones his guarantors after successful completion of each part of the journey, for instance from China to Russia, from Russia to Germany, from Germany to the Netherlands, etc. Another method is to place the amount due in the hands of a trusted third party. The smuggler is thereby guaranteed that the sum is real and the smuggled person can be sure the money will be kept safe during the journey.²⁸

28. The prefinancing method is not specifically tied to Chinese nationals. Other nationalities also use this method. Investigations into the smuggling of Iraqis suggest that the preferred method of payment is to use a trusted third party, who is often a man of some standing in the local community and involved in underground banking (personal observation based on the analysis of several Dutch investigations on the smuggling of migrants from Iraq).

Payment of the smuggling fee usually takes place in China, but can also take place in the country of destination. In the latter instance, the transfer is often done by relatives or friends who migrated previously and are willing to act as guarantor for the migrant. Smuggled people are usually kept in safe houses until payment is made, which can take anywhere from a day to several weeks. During this time, the illegal migrants are restricted in their freedom of movement. They know beforehand that this is part of the procedure. According to Chin's research, in some cases a contract is signed before the journey starts stating, among other things, that people can be held hostage (Chin, 1997: 192, 193).

Information from abroad suggests that the prefinancing method is frequently used. Wang estimates that the majority of the Chinese who enter the US illegally have their friends and relatives pay the smuggling fee (Wang, 1996: 53-56). Chin's field investigation carried out in the mid-nineties corroborates this (Chin, 1997: 174-179). The use of prefinancing is quite appealing to smuggling groups. Once the job is done, they get paid. They do not have to spend years collecting small monthly payments. It can therefore be argued that the menacing image of a powerful organization that skims off the wages of hundreds of illegal immigrants every week is unfounded. It would be an enormous task for smuggling groups that smuggle a few hundred migrants a year to keep track of all their clients. They would have to monitor their place of residence and work, their income and make sure that they make their payments. This would not only be very labor-intensive, but maintaining such a relationship with the illegal migrant would also increase the risk of detection by the investigating authorities. Furthermore, the smuggling group has to invest considerably in the smuggling operation (buying travel documents, arranging transport, accommodation, etc.) and does not wish to wait for years for this investment to pay off (Chin, 1997: 194).

It is not known what percentage of smuggled people use the prefinancing method in the Netherlands. It is likely that confirming the use of this method would be disadvantageous for some migrants. For example, the (person who claims to be an) unaccompanied underage asylum seeker can hardly declare that family members in China raised the fee for him or her.²⁹ They are therefore unlikely to talk about the method of payment. However, the source material is also largely to blame for lack of knowledge about financing methods. During police investigations, smuggled people are often only asked how much they had to pay, not *how and when* payment was made. Still, in those cases in which the how and when questions were asked, prefinancing was mentioned very frequently. It is therefore likely that a high percentage of smuggled people use the prefinancing method.

29. In 1999 the percentage of underage asylum seekers reached 68% (amounting to 792 people) of the total number of applications for asylum by Chinese nationals (figures from the Immigration and Naturalization Service). In 2000 the figure was even slightly higher at 69% (942 people).

7.3 RISKS ASSOCIATED WITH PREFINANCING

The prefinancing method also entails risks for both the smuggled people and the smugglers alike. As long as a smuggled person has not paid the fee, he is not free to leave. Smugglers have been overheard in tapped telephone conversations saying that this or that migrant “can be *released* [italics MS] because payment has been made” (case 29). This implies that the migrants are not free to come and go as they please. They are forced to remain in the safe house until the fee is paid. To encourage fast payment the situation in the safe house is often fairly unsavory. Smuggled people have reported that they were forced to sleep on a dirty floor in cramped circumstances, and the police have actually encountered such situations. During a routine inspection because of suspected illegal occupancy, 45 illegal aliens were unexpectedly found living in a small apartment. The police did not have sufficient transport to take them all away and had to rent a coach (B4).

In order to make the stay in the safe house even more unpleasant (and hasten payment), smugglers charge all kinds of extra costs. Every telephone call to China costs 100 euros (or 5 euros a minute) and food costs extra, too (cases 29 and 98). If payment takes a while due to unforeseen circumstances, a hostage situation can develop. Tapped conversations have shown that smuggled people are pressured to pay. This can escalate from verbal to physical violence. In one investigation, the enforcer reportedly said that he had “had to use strong language without getting physical” with one smuggled person (case 29). However, there are also reports that “the pressure has to be stepped up”; “some kind of threat was needed”; “a rougher approach is needed”; “you can hit them” and “whack her a couple of times and then tell her to call home”. But once the money had been paid, the enforcer was also told that violence “is no longer permitted”. In exceptional situations, migrants are tied up, abused continuously and forced to phone friends and family in China who then hear how the smuggled person is being mistreated, which obviously puts them under more pressure (Chin, 1997; Soudijn, 2001). There are very few cases of such extreme circumstances in the files, but handcuffs, clubs and the occasional firearm were found during searches of safe houses in the Netherlands (cases 9, 23, 29 and 98).

There are also risks for the smuggler with the prefinancing method because he will only receive payment if his clients instruct their family members or friends to pay the fee. Until then, the smuggler will have received at most a down payment on the total sum, which does not cover all the costs involved in the operation. Pieke presents an example of a smuggler who complained about the costs he incurred. He had to look after 60 people who had ended up in his safe house en route to Europe (Pieke et al., 2004: 93, 94). Smugglers frequently invest their own money in the smuggling business and make a profit only when operations succeed and they receive payment in full (Zhang & Gaylord, 1996: 113).

The smuggled person is therefore the key to receiving payment of a large amount of money. This makes the smuggler somewhat vulnerable and attracts competitors. The one who intercepts a smuggled person immediately *after* a journey is completed, but *before* the fee has been paid is in luck. He can instruct the migrant not to pay the fee to the smuggler, but to another contact, leaving the

original smuggler empty handed while he is the one who paid all the expenses and bore all the risks. Of course, due to the illicit nature of the enterprise, the smuggler is not in the position to sue his competitor. Furthermore, if a smuggler's clients are 'stolen' from him, he can be held liable for the losses by family members (Pieke et al., 2004: 94). To counteract such problems, one smuggling group ordered migrants to pay the smuggling fee for a trip to Great Britain in advance (case 98).

The files show that some organizers occasionally referred to the financial risks (cases 9, 23 and 29). They warn each other to be careful and sometimes purchase a firearm for protection. Enforcers are not only responsible for minding the migrants, but must also take care not to allow strangers into the safe house. Smugglers use secret codes for protection. For example, a road transporter had to pick up four illegal Chinese nationals who had just arrived in the country by train. He was instructed to look for 'number 22' (case 32). He revealed the meaning of this code later during questioning. The migrants were told to avoid any other person who approached them without this code and would know they were to go with him when they heard the number.

Nevertheless, measures of this nature are sometimes insufficient or are used too late. Despite the usual good relations between smuggling groups, three files showed that one group actually stole illegal migrants from another one (cases 29, 32 and 73). One minder told how he arrived at Schiphol by airplane with a small group of migrants. When leaving the arrivals hall, four armed Chinese nationals forced him at gunpoint to get into a car and took him to The Hague, where he was held captive for several days. His clients were abused and forced to call their family members in China. When payment was finally made, everyone was set free. The kidnappers asked the minder to work with them in future. He would only have to tip them off when a new load of migrants was due to arrive. Two other smugglers were kidnapped by unknown Chinese people and forced to disclose the location of a safe house. When the original organizer found out, he quickly moved all migrants to another safe house. In one other case, there was a plan to murder a member of another smuggling group for allegedly stealing migrants. However, the plan was never carried out. In retrospect, it appeared more to be a matter of miscommunication than rivalry. It turned out that a group of migrants that arrived in the Netherlands would be split according to prior agreements between different organizers. Apparently, one organizer in Amsterdam picked up some migrants from another organizer by mistake.

It stands to reason that an additional consequence of the real or perceived external pressure brought to bear by the risk of malicious competitors (on top of the risk of criminal prosecution) is further strengthening of ties within a smuggling group.

7.4 CONCLUSION

Large fees are charged for smuggling people to the West. Amounts of 20,000 euros and more are not uncommon. However, the method by which these fees

are paid by the smuggled people must be properly taken into account. If it is assumed (or overlooked) that it is impossible for illegal migrants to get such a large amount of money together, it is logical to conclude that they are 'victims' and exploited by their smugglers. It thereby seems obvious that migrants are coerced into various forms of forced labor or prostitution. From the hierarchical perspective based on the smuggling literature, it is also assumed that smugglers are involved in e.g. heroin transportation. The Dutch files show, however, that such assumptions are *incorrect*. In the cases of human smuggling brought before the Dutch courts, hardly any evidence was found of a symbiotic relationship between human smugglers and forced prostitution, drugs, extortion or robbery. Of course, there is a possibility that as soon as other forms of crime crop up, the investigating team chooses to ignore these or establishes a separate investigation teams in order to keep matters simple. However, interviews with diverse police personnel give the impression that smugglers were mostly involved in types of crime that are intrinsically related to human smuggling, such as passport falsification, but did not show criminal diversification. This lack of criminal diversity is in line with the network perspective found in the literature on human smuggling.

One possible explanation for the lack of exploitation by smuggling organizations is the way in which migrants finance their passage. In another study it was already pointed out that migrants make use of prefinancing methods of payment (Chin, 1997). This entails the migrant collecting the amount required for passage before the journey begins. When the migrant arrives at his destination, the smuggler is paid by his relatives or friends. This is not as odd as it may seem at first glance. The literature on migration suggests that migration is not a decision taken by just one individual, but that several people (family, friends) often play a role. The method of prefinancing is advantageous for all the parties involved. The smuggled person has the assurance that he will not be cheated. His family and friends consider it a good investment, because they will be repaid with interest. And the smugglers who run large-scale operations benefit in particular. It is inconvenient for them to have to skim off the monthly pay of illegal immigrants for years on end and increases the risk of being caught. By using prefinancing arrangements, the smugglers will be paid immediately upon the successful journey of their clientele.

Instead, it can be argued that exploitation would be more prevalent among the small-time smugglers, and in particular those who work alone. The reason lies in the nature of migration. Social capital plays a role in this type of operation, so small-time smugglers are most likely to attempt to smuggle relatives or acquaintances and they can then be put to work in the family restaurant, for example. However, because the research material used contained virtually no cases of small-scale smuggling, there was too little evidence to support this supposition.

However, this does not mean that individuals smuggled by the larger smuggling groups are never exploited or abused. The use of prefinancing methods can also lead to some particular hazards for the migrant. Because the migrant pays out his smuggling fee at the end of his journey, the smuggler must ensure that he reaches his destination *and* remains under his control. If the migrant were to run

off upon arrival, the smuggler would not get paid. If a rival smuggler would kidnap his clientele, he also would not get paid. Therefore, safeguards are employed. The migrants are locked up in safe houses and enforcers are used to keep everything in check. In rare instances, people did receive violent treatment and technically speaking, a hostage situation developed.

Furthermore, when the prefinancing method is used, the smuggled person obviously remains indebted to those who advanced him the money to pay the fee. And as we know, these fees are huge. It is highly plausible that reciprocity exchanges occur. The migrant tries to redeem the debt to his financiers (family and other acquaintances) by working long hours. In this way, migrants can end up in exploitative situations, although the original smugglers are not involved.

Lastly, most of the case files in the research group deal with smuggling *out* of the Netherlands rather than *to* the Netherlands. As indicated in chapter 4, the Netherlands is a transit country in almost all of the studied court files. It is therefore possible that migrants encountered in the Netherlands are traveling onward and are not exploited here but at their final destination. However, if we allow for a network perspective, that also means that they are exploited by *other* smuggling groups situated outside the Netherlands.

8 Government action – smuggling reaction

8.1 INTRODUCTION

The last indicator to be considered is the possible interaction between government action and the organization of human smuggling. Considering human smuggling from a hierarchical viewpoint, it can be argued that more repressive government action leads to higher sums being paid for smuggling and too much risk for small-time smugglers, which in turn plays into the hands of highly organized groups of smugglers. However, thinking from a network point of view, it can be reasoned that stricter government action leads to even greater fragmentation.

Nevertheless, the point of departure for these propositions is that there is interaction between government policy and the organization of smuggling. But how can we determine such interaction? A simple way to investigate this is to mark the year 1994 as a major calibration point for the Netherlands. In that year Article 197a of the Dutch Penal Code came into force. In other words, it had not been possible before then to convict anyone under Dutch criminal law for illegally bringing third parties into or through the Netherlands (unless forced prostitution or fake documents were involved). Based on the ideas on hierarchic organizations in the human smuggling literature, this could mean that before 1994 – let us say in the pre-197a era – there was only a low level of organization involved and that once 197a had been introduced, all kinds of government measures led to a high level of organization. On the other hand, although this comment is not made in the literature on human smuggling, it is just as likely that powerful smuggling organizations controlled human smuggling in the pre-197a era *precisely* because of the lack of a criminal law approach. The lack of need for cover could have led to the formation of large-scale enterprises. Only when an active prosecution policy came into effect (and with it the need for cover) these organizations would have to start working on a smaller scale because of the need for self-preservation.

The next sections will look at the organization of Chinese human smuggling in the pre-197a era. Thereafter the research period of 1996-2003 is considered in more detail. It is a fact that the Dutch government started to take a harder line against human smuggling during this period. This is shown by all kinds of anti-smuggling measures that were introduced and governmental bodies that were set up at the time. But practical limitations have also to be taken into effect to fully understand the interaction between government policy and the organization of Chinese human smuggling.

8.1.1 Pre-197a, part 1

Given that human smuggling has only been a criminal offence in the Netherlands since 31 December 1993 (which means that the law actually came into force

on 1 January 1994), 1994 is an important dividing line in the question as to whether changes have occurred in smuggling organizations as a result of government policy. In this context it is logical to assume that human smuggling must also have occurred before 1994 because new legislation always comes after the occurrence of criminal developments. Criminal provisions cannot be drawn up immediately, so there will have already been human smuggling activities noted in the run-up to the new provisions. However, the question is how far does this period go back in connection with the smuggling of Chinese?

Remarkably, it goes a long way back, to before the Second World War. There is evidence of human smuggling since the emergence of the Chinese community in the Netherlands. Van Heek, for example, researched the Chinese community in the 1930s. One of the crimes that he addressed was smuggling. This included the smuggling of goods, but the “smuggling of humans” is also mentioned under a separate heading (Van Heek, 1936: 82). Rotterdam was an important transit port for these activities. Van Heek did not venture an estimate of the number of Chinese nationals who entered the Netherlands illegally, but he expected the number to be very high.

A report drawn up by Inspector Van Vliet of the Rotterdam Aliens Police Department also states that the Netherlands was a transit country for Chinese human smuggling as early as 1920. For example, a Chinese national living in Lombokstraat in Rotterdam was “under serious suspicion of involvement in the smuggling of Chinese nationals as stowaways to America” (Van Vliet, 1920: 5). The use of forged documents appears to have been standard practice.

“Reports reach me that prove irrefutably that Chinese nationals are entering our country using passports sent to them – at their place of residence abroad – by countrymen who are already in the Netherlands. When they show these passports at the Dutch border, they apparently count on the similarity in appearance between many Chinese causing the border official not to notice that the photograph in the passport is somewhat different from the countenance of the bearer” (Report 63/3166, 1935).

However, no information for this early use of the look-a-like method is given about whether payment was required and if so, how much. However, the smuggling of Chinese nationals before the Second World War into the Netherlands probably already involved large sums of money. A Chinese man, for example, made the following statement about how he came to the Netherlands:

“I come from a farming family in Zhejiang. We were neither poor nor rich; we were middle class. But in the ‘30s things got worse and worse for us [...] Then our former neighbor came back from Europe. His father-in-law had given him money to visit his family and told him that he should bring his family and friends back with him if they also wanted to go to Europe. I went with him, together with four others from my village, three men and one woman. My wife and son stayed behind. I was supposed to pay 300 Chinese guilders for the voyage. That was a lot; it was in 1936. We traveled first to Shanghai. From there we sailed on a German cargo ship to Marseilles. In Marseilles I went ashore, which I had to do in secret. The others traveled on to Germany and the Netherlands.” (Sciortino et al., 1993: 12).

Still, there is not enough information available about the organization of these early forms of smuggling to substantiate any statements. Nevertheless, it would be mistaken to disregard this smuggling of Chinese nationals as only small-scale in terms of organization. For example, Wubben reported a large-scale smuggling operation (Wubben, 1986: 119-122). This concerned the following. As a result of the barriers to migration by Asians put up by Australia in the 1920s, they were only able to enter Australia if they were smuggled in. However, the ships that came directly from China were rigorously checked. Therefore a supply route developed from an unsuspected spot like the Netherlands. First of all, the humans to be smuggled were brought illegally on board ships bound for Europe in Hong Kong or Singapore. The migrants would often be disembarked in Marseilles or Genoa where they would be given temporary accommodation in the local Chinese community. They would then travel on to Rotterdam by land. Having gathered in Rotterdam, the illegal aliens would be smuggled on board Dutch ships bound for Australia. During the journey they had to hide in concealed spaces, which led to terrible conditions. Although they were given food and drink by European or Chinese crew members who had been bribed, problems could occur – especially with large groups. For example, in October 1927, 50 illegal aliens were found on a Dutch ship in Freemantle harbor. They were so weak that they were unable to leave the ship unaided. At least two stowaways had succumbed to the hardships of the journey and they had been thrown overboard with the utmost secrecy on the open sea. Although there were a lot of rumors during the subsequent inquiry about large profit margins, bribed Lloyds ships officers and the involvement of shipping masters, no one was ever convicted.

8.1.2 Government action

Based on the (albeit meager) files in the municipal archives and on interviews, the recognition of human smuggling in the 1930s apparently did not result in active criminal investigations. This was because the State had another solution. In accordance with the policy at the time, attention was focused more on removing illegal aliens and “Chinese paupers”. This was very possible because of the lack of liberal influences. Take, for example, the action taken by the Amsterdam police in the 1920s following the confrontation between two Chinese organizations, *Bo on* and the *Three Fingers*, who were incidentally later called triads in the literature (Bresler, 1981; Bovenkerk & Fijnaut, 1996). Supporters of these organizations shot at each other in broad daylight, resulting in several fatalities. The government responded with a pointblank round-up of suspects and a show trial.³⁰ Finally, 207 Chinese nationals were deported to China under Marine guard (Vellinga & Wolters, 1966: 47; Wubben, 1986: 66-73).

30. The subsequent trial can only be described as amazing. Especially for the occasion, the renowned Sinologist from Leiden, Duyvedak, had made up an oath to be taken by the Chinese nationals involved in the case. They had to swear not to withhold any information on pain of being struck down by the wrath of the gods. Then two red candles had to be blown out. The 22 Chinese defendants and 72 witnesses were assisted by only one interpreter who could only speak Mandarin. The trial lasted only one day because this interpreter had to catch a boat the same day to accept his appointment at the Dutch embassy overseas (Voordewind, 1950: 134; Wubben, 1986: 75, 76).

Systematic deportations also followed the economic crisis of 1929. The Dutch government was afraid that unemployed Chinese sailors and worn-out stokers would place too great a burden on the treasury. But the unemployed people who took it upon themselves to start selling cheap peanut cakes in the streets were also considered to be causing a nuisance by the local authorities. The sellers were labeled a danger to public health and their street sales were seen as a disguised form of begging. The local police chiefs were also concerned about tolerating successful sellers because they might encourage others to come to the Netherlands as well. Measures were therefore taken in the mid-1930s in the form of very stringent rules and active repatriation. Chinese illegal aliens, old people and sick people with insufficient resources to support themselves were sent back without mercy to Hong Kong and China. A special department was set up to centrally register all Chinese nationals living in the Netherlands. This department was responsible to the Central Border Control Department and the Aliens Department of the Ministry of Justice and was known as the “Chinese Registration Department” (Zeven, 1987: 59).

Van Heek comments that a voluntary return was not an option in his opinion because the Chinese would be afraid of losing face if they returned penniless to their native region.

“How they would be ridiculed and what shame would be brought on their family name by these failures of sons who – oh the disgrace! – would have to be supported by their elderly parents!” (Van Heek, 1936: 26).

The Chinese consul in Amsterdam, Yuan Tieh, protested in vain against these deportations. He commented that the repatriates did not even ask the Dutch authorities for support. Furthermore:

“these ageing sailors will have difficulty finding the means to support themselves in their own country having been away so long, whereas here they are provided with their daily bread by their friends, so here is where they want to stay.” (Report 63/3165, 1937).

It was to no avail. Yuan Tieh was informed in advance about repatriations and the only thing that remained for him to do was to inform the local authorities in China in good time so that help could be provided. A few months later Yuan Tieh tried again to soften this policy. He pointed out that the situation in China was now far from normal. The war meant that the civilian population had to contend with enemy attacks on the one hand, whilst on the other hand there was a very high level of unemployment and little chance of help from the local Chinese authorities (Report 63/3165, 1937). He again made little impression. Einthoven, in those days chief of the Rotterdam police, stressed the preventive effect. “A Chinese national is very reluctant to return to his country without any money. Many who were expecting to be removed left our country of their own accord.” (Report 63/3165, 1937). In his answer to the consul Einthoven added:

“Furthermore, the question occurs to me as to whether it is responsible – given the consequences – to allow destitute subjects of every country where there are exceptional circumstances to stay in these parts as long as those circumstances persist. Repatriation has been a regular occurrence in the case of Spanish undesirables returned to their country whilst the civil war was in progress there, as well as in the case of Jews returned to Germany, where in my view there have also been exceptional circumstances for them since Hitler’s administration came to power. I am therefore of the opinion that no exception should be made for Chinese nationals in general” (Report 63/3165, 1937).³¹

The only way of avoiding deportation was to have a third party pay a deposit of 1,000 guilders. However, this sum proved so high in practice that this way out was actually impossible. Such a situation, combined with economic malaise, reduced the Chinese population from several thousand people to only around 800 people in 1939. It was not until 1949 that repatriation officially ended when the communists came to power in China.

8.1.3 Pre-1970, part 2

Smuggling of Chinese nationals also took place in the decades between the Second World War and 1994. Although information was not available regarding possible illegal Chinese migration in the 1950s and 1960s, the archives and interviews show that Chinese nationals were certainly smuggled into the Netherlands in the 1970s.

“It is so obvious that the journeys to Western Europe by ‘illegal’ Chinese nationals – or at least their illegal entries – are organized by unauthorized people that I ultimately wonder whether general measures to combat this evil can be taken at national level” (Report 432/6830, 1971).

The illegal aliens often first crossed the Chinese border illegally to enter Hong Kong, where they were given a new status by the Hong Kong authorities before continuing their journey. A chief of police at the Aliens Police in The Hague noted down the following route in a report to the Central Department for Alien Affairs and Border Control at the Ministry of Justice:

1. “Chinese nationals, from China, but living in Hong Kong, apply for a “Certificate of Identity” from the authorities in Hong Kong.
2. They then take this travel document to the Danish Consulate in Hong Kong to obtain a visa to visit Denmark as a tourist.

31. After the Second World War, Einthoven spearheaded the formation of the Dutch security service and became its director. In honor of Einthoven’s services, his personal motto “living fishes swim against the stream, only the dead float along” (*levende vissen zwemmen tegen de stroom in, alleen de dooie drijven mee*) has been adopted as *per undas adversas* (against the stream) in the official logo of the Dutch Intelligence Service (Einthoven, 1974).

3. They then present the travel document, which now includes a Danish visa, to the Belgian consulate in Bangkok, Taipeh, Manila or Hong Kong to obtain a visa for a short visit to Belgium.
4. In most cases, the flight via Bangkok to Brussels then takes place very soon after they obtain this last visa.
5. After they arrive in Brussels they either carry on immediately to the Netherlands, or they do so after a short stay in Belgium.
6. They usually cross the Belgian-Dutch border by car, which of course is easy because there are no border controls" (Report 432/6830, 1971).³²

No further details are given about whether some organization or other was behind these activities. Once again, the Dutch State had had a simple solution available to combat human smuggling, namely focusing on deporting Chinese illegal aliens rather than on the smugglers. But the usual countermeasure of deportation also started to fall apart in the 1970s. The next section will focus on this shift.

8.1.4 Government action

It must be pointed out that Chinese illegal aliens mainly came from Hong Kong in the years between the Second World War and the 1970s. Given that this was a Crown Colony of Great Britain, many of them could use a British passport as an intervening opportunity (see section 2.2.4 on migration). When they arrived in the Netherlands they had to register with the local Aliens Department. If some of them became illegal aliens after a time (because the period for which they were allowed to stay in the Netherlands had expired), then their identity could still be determined. Because they often also kept their original documents (passport and ticket) for identification purposes, these illegal aliens could then be deported back to Hong Kong again without any problems (B1).

Another striking aspect of that period is the handling of illegal aliens who were caught without any form of identification. If an illegal Chinese alien had no papers, the detectives would make enquiries in the Chinese community, *during which time the illegal alien would remain in custody*. Papers would finally surface, and the illegal alien would then be deported after all. However, on occasion one and a half years went by before the necessary documentation was found and the illegal alien remained locked up at the police station during all that time (B1, B6). It should be noted that this was in holding cells at police headquarters, not proper

32. As a result of various treaties that were signed in the 1960s between the Benelux countries (The Netherlands, Belgium, Benelux), the border controls were restricted to the common outer borders of the Benelux countries. However, pushing back the borders also produced criticism. "Abolishing the border controls for people crossing our southern border has, however, made it very easy to enter the Netherlands. Many foreigners are obviously aware of this, which is why so much use is made of these border crossings" (Halma, 1979: 42). Such criticisms are also recorded every time the European Union is nowadays extended.

detention centers. Kalmthout notes that these temporary holding cells were actually only suitable for a stay of a few days (Van Kalmthout, 2003: 294).

However, this state of affairs was already beginning to change slowly in the 1970s when more and more illegal Chinese aliens from the People's Republic of China instead of Hong Kong turned up in the Netherlands. These Chinese nationals from the People's Republic of China were completely stripped of anything that in any way could point to an identity. "The clothes look new. The pockets are completely empty; there is not even so much as a handkerchief" (Report 432/6830, 1971). However, illegal aliens' identities had to be determined; otherwise the People's Republic of China would not recognize them as state subjects and would not be prepared to take them back. The willingness of the Chinese embassy to find other solutions was considered minimal. The Chinese illegal aliens from the People's Republic knew this too, and therefore were deliberately uncooperative. The only possibility that then remained for the Aliens Department was to hold the illegal aliens from the People's Republic of China in detention, like the illegal aliens from Hong Kong, until they revealed their true identity. However, the illegal alien does not know:

"how long he will have to stay there because the judicial authorities have no way of knowing whether and if so, when the documents needed to release him will arrive from China [...]" (Coterell, 1982: 693).

The courts therefore ruled that aliens could not be held in detention indefinitely because after all, they were only illegally resident and that was not a crime. If the Dutch authorities stopped trying to unearth the alien's identity, the judge would order that the person be set free. In practice, the maximum period for which an illegal alien could be held in detention was often about six months.³³ After this period the detention order had to be lifted and the Chinese illegal alien was set free. In the 1970s he would then receive a reporting note. He had to take this note to the police station once a month to get it stamped. In effect it functioned as a 'get out of jail card'. When the holder of such a card was arrested on grounds of suspicion of illegal residence, he only had to show this note to avoid detention and continue his business. It therefore became known in Southern Chinese circles as [phonetically] *hangkaiqi* or 'walking note' (B1).³⁴ Quite literally, he was allowed to walk free. It also meant that his residence was in fact tolerated; he was semi-legal and the situation would often lead to legal status. The reporting note became therefore very much in demand. At a given moment, illegal people even came of their own accord to the police station to get a "walking note" (Report 432/6835, 1984). A report by the Hague Aliens Department indicates that this method was already widespread in 1971. The reporter notes:

33. Dutch prisons and their mild regimes were probably far from a deterrent for Asians. It was even possible to earn some money by carrying out simple tasks (De Vries, 1985: 222; Willems & Cottaar, 1989: 125). This six-month period still applies in 2005.

34. The Mandarin transcription should probably be read as *Xingqi* (5887-1148-2601) or 'walk agree period'.

“You are undoubtedly aware that the Chinese community in these parts knows that not having identity papers ultimately leads to a residence permit. This knowledge has already led to a steady increase in the number of voluntary registrations of ‘illegal’ Chinese nationals” (Report 432/6830, 1971).

Nonetheless, this warning was largely ignored at the time. It is true that ‘walking notes’ were no longer being issued by the end of the 1980s, but a similar avenue was still open for an illegal alien: he could request asylum. This may sound cynical, but not all Chinese asylum seekers are genuine political refugees, as other studies already confirmed (Kung, 2000; Wang, 1996: 60).

Asylum gave the applicant legal status, at least while this application was being processed. If his application were rejected, he could appeal several times, after which the application had to be processed again. Certainly until the mid-1990s anyone who was in the asylum system could remain legally in the Netherlands for a number of years. And most people could ultimately obtain a permanent residence permit because of the length of time that they had already been waiting in the Netherlands for a final decision on their asylum application.

However, with the increase in the numbers of asylum seekers (see also table eight) and the increase in the numbers of illegal aliens of all nationalities, the government slowly started to take new structural measures. These measures fall into three categories (see appendix two for a brief overview). The first category consists of all kinds of measures that regulate entry. Various forms of border controls are designed to ensure that the people who enter the Netherlands are entitled to do so. The second category of measures is an attempt to make staying in the Netherlands unprofitable in order to limit the influx of illegal aliens. Policy in this regard focuses on illegal residence as well as the options for requesting asylum. For example, if strict labor inspections make it more difficult for illegal aliens to obtain legal or illegal income, this makes it more difficult for them to exist as illegal aliens. The migrant could then theoretically choose to build a life in another environment (displacement effect) or even not to enter the country at all. The same applies more or less to asylum. If asylum applications have a low success rate and there are no advantages involved, this should discourage migrants from choosing the Netherlands as their destination (if the success rate was a determining factor). A third measure – repression – approaches the problem from a new angle. Because of the introduction of Article 197a, the government is able to begin to focus on those who benefit from the arrival of illegal migrants. This means not only people using illegal labor, but also those who bring them here (i.e. the smugglers). In other words, the criminal prosecution of smugglers is nowadays deemed a valuable measure to manage migration flows (Tweede Kamer, 1995: 1).

8.1.5 *Changes?*

The preceding sections have made it clear that the smuggling of Chinese nationals has always existed in the Netherlands in parallel to legal forms of migration.

However, until the early 1990s the amount of attention paid by the Dutch government to the smuggling of Chinese nationals and its organization can be considered minimal. Various reasons can be put forward for that. First of all, the lack of a legal framework will obviously have restricted police action. Secondly, the Dutch government had a sovereign remedy for illegal Chinese migrants available in the form of deportation. This possibility has receded since the 1970s when illegal aliens started arriving from the People's Republic of China who knew how to make full use of their rights. They could no longer be held indefinitely while their identity was being determined and they were even given the possibility to obtain a residence permit. But is the lack of government attention and information sufficient indication that the influx in the pre-197a era did indeed have a lower level of organization?

The attention paid previously by the government to human smuggling is in fact insufficient to enable a good comparison with the present-day situation. It is therefore not possible to adequately refute the assumption that lack of government intervention resulted in a low (or high) level of organization of smuggling in the early days.

Still, it is worth noting that a few individual detectives with knowledge of the Chinese community were already expressing suspicions in old police reports that the entry of Chinese illegal aliens was highly organized.

Furthermore, we should not immediately deduce from the current (increased) level of government attention to human smuggling that there will not be any more small-scale forms of organization in the era following the introduction of 197a. The danger is that we will simply look at 'major' organized crime, which will cause us to quickly overlook simple forms of smuggling. There are still intervening opportunities that allow simple forms of smuggling to go ahead, as will be indicated in the following section.

8.2 Post-197a

The Dutch State started to pay more attention to human smuggling since Article 197a came into force on 1 January 1994. Article 197a was strengthened in 1996 (and again, in 2005). In addition, various old but also a number of new government organizations became involved in the fight against human smuggling (see appendix two). In this sense a stricter approach has certainly been taken against human smuggling. Moreover, stricter methods of investigation cannot be seen separately from two other packages of measures taken by the Dutch State, namely pre-border controls and changes in dealing with illegal residence and asylum. It is therefore difficult to assert which individual policy measure has what specific effect on smuggling (see also Zetter et al, 2003). However, that is actually not necessary for the purpose of this research. The general tendency has been for policy to become stricter. In this sense it is still possible to examine whether there is a general interaction between the organizational form(s) of Chinese human smuggling and government policy.

However, a stricter government policy has also to be translated into practice. It is therefore important to look not only at the theory (the legislation and regulations as well as the crime fighting organizations that are involved), but above all at the actual practice. Kwong's research showed that inadequate checks on compliance with labour regulations became even an incentive for Chinese employers to employ illegal workers (who were by definition cheaper than legal workers) (Kwong, 1997, 2001). This reinforced the attraction for Chinese migrants to come to America, illegally if necessary.

There is often the requisite tension between the formal and the informal line. This tension is caused, for example, by the difference between an aliens policy considered desirable by the government and the restrictions that apply when implementing that policy (Calavita, 1998: 147-149; Müller-Schneider, 2000: 131). There are therefore certain qualifying comments to be made regarding combating human smuggling. In the next three sections, we take a closer look at actual practices in regard to combating illegal entry, illegal stay or the beneficiaries of human smuggling.

8.2.1 *Entry*

Pre-border and border controls are far from watertight. They would require too great deal of time, money and effort, not to mention the restrictions the Schengen Agreement imposes. The Member States of the European Union who signed the Schengen Agreement agreed to carry out checks at the outside borders of the Schengen Area only. There is more or less free movement of people and goods across the internal Schengen borders. Once the outer border with the rest of Europe has been crossed by some means, there are almost no obstacles to entering the Netherlands over land. For example, anyone who is able to enter Europe at the Paris airport will be able to travel on by train to the Netherlands without much hindrance. The Mobile Border Supervision of Aliens Police does carry out random checks in the border regions, but these checks have little effect because they are carried out very irregularly and only on a small scale (see also Witte et al, 2001). The entire operation requires quite a lot of manpower (which is not always available) and only a very small number of cars can be checked per hour (personal observation on 13-09-2004). The impact on the total movement of people in the border region is therefore almost nil. This means that the risk of being caught is relatively small for e.g. Vietnamese transporters driving migrants from Germany to the Netherlands.

Pre-border measures for travelers from outside the European Union also have their limitations. The European tourist industry expects a substantial boost from the emerging Chinese tourist market. Some 12 million Chinese are already reported to have taken a holiday abroad in 2001 (Butler, 2003). In order to make entry easier for Chinese tourists, various European countries, including the Netherlands, signed an "Approved Destination Status" agreement with Beijing in 2004. The Netherlands Board of Tourism and Conventions expects, partly because of the signing of this agreement, that around 340,000 Chinese tourists

will come to the Netherlands in 2006, with that number rising to half a million in 2009 (Van der Heide, 2004).

Of the total of 10,314 visa applications at the Netherlands' visa office in Beijing in 2002, no less than 95% (in the first instance) were approved (AR, 2003). Germany's Beijing visa office approved a slightly lower percentage at 92%; however, they received 89,202 applications (AR, 2003: 23). The lack of border controls between the Netherlands and Germany also means that it is unknown how many of the 89,202 German visa applicants traveled on to the Netherlands.

Although the rule is that a visa can only be issued once a guarantor has been found, this rule is a mere formality. In theory the guarantor could be fined and ordered to reimburse other government costs, but this does not happen in practice (AR, 2003: 66). Inquiries on the work floor revealed that starting a procedure to recover money owed brings with it the risk – because of the guarantor's rights to appeal – that the return will be less than the costs involved. This is why these measures are not applied (B6). The guarantor therefore runs little risk, except that he will probably not be accepted so easily as a guarantor in the future.

In addition, the Dutch government is not able to determine whether the Chinese tourists, family members or business people for whom the guarantors put themselves forward do actually return to China. At the time of writing it is deemed not feasible to oblige these returning Chinese to register their return with the authorities in China. Suppose the Netherlands would give an applicant only a visa on condition that he shows his face at the Dutch embassy once he had returned to China. If the applicant lives in Guangdong he will have to travel three days by train, simply to present himself to the embassy staff in Beijing. The Dutch government has decided that it cannot impose such a burden.

Returning Chinese not only do not have to register their return; the date of their return journey to China is not registered either. According to the Netherlands Court of Audit, it is possible to state in respect of only about 6% of all visa holders that they actually leave the Netherlands after their visa expires (AR, 2003: 6). Given similar observations regarding guarantors, it can be hypothesized that it is precisely the migratory forms of smuggling (with friends or family as guarantor in a false application for a visa) that still have a good chance of success.

8.2.2 *Illegal residence*

In a second type of measure to counter human smuggling, the government attempts to make it unprofitable for an illegal migrant to stay in the Netherlands. To counter illegal residence, checks are carried out on illegal work and illegal residence. However, these checks are not always stringently applied in all regions. According to a strict interpretation of the legislation governing controls in the catering and restaurant sector, an illegal alien must be caught *working*. Only then can he be placed in detention. In the past, Chinese illegal aliens were arrested in the kitchen of a restaurant if they were wearing a chef's hat or an apron. Employers have therefore ensured for years now that illegal cooks are not caught wearing this paraphernalia. There have also been cases where the kitchen staff quickly sat

down at a table in the kitchen to read a newspaper during an inspection. They were still illegal, and they were sitting next to a pan of boiling soup, but there was nothing to show that they were working.³⁵ Delaying tactics are also used. The kitchens are locked and difficult to get to. Someone then presses an alarm to warn the kitchen staff that the inspectors are coming. This gives the illegal staff more than enough time to hide. At one time the people from the Aliens Police were physically prevented from getting in for just long enough to allow the kitchen staff to flee to the apartment above the restaurant (personal experience, April 2000). The inspectors were then forced to break off their action because they only had authority to enter the kitchen and not the apartment. The kitchen staff watched from behind the upstairs curtains as the inspectors were forced to slink away.

But imagine that Chinese illegal aliens are arrested. There is still the problem that it is difficult to deport them. If illegal aliens or failed asylum seekers are caught, they do have to leave the Netherlands in theory, but it is not always possible to actually enforce their departure. Chinese illegal aliens in particular have the reputation of being impossible to deport (B4, B6). The Netherlands Court of Audit reports accordingly that a comparison of various nationalities shows that “deportation to China is the most difficult” (AR, 1999: 19). Various respondents blame the Chinese embassy (B1, B3, B4, B6). If the Dutch State is unable to conclusively identify a Chinese illegal alien or a Chinese failed asylum seeker, the embassy will not recognize this person as a subject of the People’s Republic of China. The person will not be given a *laissez passer* to travel to China. This situation is quickly reached if the Chinese alien in question refuses to say anything about his identity or deliberately gives a false identity. This makes deportation a practical impossibility. In other words, this problem dating back to the 1970s has still not been solved (see previous sections).

The difficulties that there have been for years in deporting Chinese illegal aliens have made some regions of the Netherlands a lot less enthusiastic about intensive checks on Chinese catering businesses and restaurants. The Aliens Police in many cities also sees Chinese illegal aliens as “trouble”. After all, you cannot deport them. This is why Chinese illegal aliens are often given verbal notification to leave the Netherlands and then sent back out on the street again (personal experience, July 1999). These situations appear to occur frequently in practice (B1, B4, B6, B7), particularly if, for example, there is insufficient cell capacity, not enough interpreters, too few personnel when they are arrested or if there are problems transporting the prisoners because police vans are not available.

It stands to reason that human smugglers are also aware of this state of affairs. For example, in one case the suspects spoke on the phone about a failed smuggling transport (case 29). No one seemed to be really worried. The smuggled humans had been told beforehand to keep quiet if they were arrested. After all, within a few days they would be back on the streets and able to contact the smugglers again for a second attempt. Some of them had also been intercepted

35. Incidentally, this tactic does not always work. Depending on the inspector in charge, he may argue that with no one else around, it is only too clear that the illegal alien was boiling the pot of soup.

before and therefore knew what to say and what not to say. The smuggler also told them they could ask for asylum. They would then be sent to an Application Center that they could simply leave on their own initiative. The wisdom of these instructions became apparent only too quickly. When they were intercepted the smuggled humans did indeed request asylum. They were then told by the police that they had to *go by themselves* to the Application Center in Rijsbergen in order to register for an asylum application. And indeed, they were released and shown the way to the train station. But given that there was no further police accompaniment, it is not surprising that they never turned up in Rijsbergen.

8.2.2 Repression

The third measure to counter human smuggling, is repression. Since 1994 those who profit from illegal labor and smuggling can be prosecuted. Over the years, several governmental organizations to combat human smuggling have been set up.³⁶ But in spite of the tightening up of legislation on human smuggling and the setting up of various anti-smuggling organizations, it would be a serious overstatement to say that the criminal law approach to tackling human smuggling is a well-oiled machine.

The countless consultative bodies, reorganizations and departments that are concerned with human smuggling are an indication that the approach to human smuggling does sometimes run less smoothly than first impressions suggest. Although the appointment of a National Public Prosecutor for Human Smuggling shows the seriousness that the government attaches to tackling human smuggling, the creation of this function was also born out of necessity. Partly due to the initial low threat of punishment, local public prosecutors were reluctant to take on human smuggling cases. A National Public Prosecutor is intended to help to change that situation.

However, there are still regions that are less willing to deal with human smuggling cases in spite of an increased level of punishment (IAM, 2005: 45). They prefer to prioritize crimes that have a much greater impact locally than human smuggling. It should be noted that human smuggling causes very little nuisance for the average citizen, whereas young people hanging around and vandalism cause quite a lot more. Therefore not enough detectives are available for investigating smuggling cases. For example, in 2000 a lot of police man-hours were taken up by the introduction of the euro and by the European Football Championships (B6). Sometimes priority must be given to more urgent cases. For example, there is a case on file where an investigation of a Chinese smuggling organization was cut short following a major disaster in Enschede: a fireworks factory had exploded, taking several blocks of houses with it. All available detectives were allocated to assist for months in the aftermath of the disaster. The human smuggling investigation was therefore stopped (case 16). In 2002, the Marechaussee was obliged because of political pressure to suddenly pay a lot of attention

36. For a detailed overview of different government bodies involved with the tackling of human smuggling, see appendix two.

to so-called “pellet swallows”, passengers who had swallowed pellets of cocaine in an attempt to smuggle them across the border that way (OM, 2002). Manpower was transferred to this task from existing human smuggling investigations.

We must also not forget that setting up a human smuggling investigation requires quite a lot of manpower. Furthermore, every human smuggling investigation will by definition need interpreters. After all, these are foreigners trying to enter the Netherlands, which means that a large part of the investigation soon involves working with other ethnic population groups. Because telephone tapping is frequently used in criminal investigations in the Netherlands, many hours of interpreters’ services are required. Take the “GATE” investigation, for example. This was an investigation into human smuggling involving Iranian and Iraqi suspects, which took place from February to November 1996. The suspects made no less than 30,015 telephone calls (IJzerman, 1999: 84). Because some ethnic groups are relatively new in the Netherlands and speak obscure dialects, there is often a lack of (reliable) interpreters. The police therefore spend a lot of money in each investigation on (exclusive) interpreters alone. In addition, such investigations usually last several months. Given the nature of the crime, there is very quickly an international component to the investigation. However, cooperation with foreign authorities is a difficult process due to all kinds of legal complications.

Policy decisions are also taken that affect how human smuggling is tackled. In 2003, a lack of court capacity meant that passengers who had tried to leave the Netherlands on a false passport at Schiphol Airport only had to pay a fine and were then able to continue their journey. Policy was temporarily changed because of the thousands of cases at Schiphol Airport (ANP, 2003). At the beginning of 2004, Haarlem Public Prosecutor Hartjes admitted “that the passengers with forged travel documents are mostly asylum seekers or illegal aliens who have been put on the plane *by human smugglers* [italics MS]” (Schenk, 2004). Nevertheless, there was no prosecution, let alone a police investigation. If the passengers refused to pay the fine, they were not even summonsed to appear in court. The reasons given were: lack of cell capacity, summons problems, and “they’re going to leave the country anyway and the criminal organizations can’t be traced via smuggled humans in any case,” according to Hartjes (Schenk, 2004).

In short, the government may well have created the possibilities in 1994 to combat not only illegal residence, but for the first time also human smuggling. However, in practice, this has not amounted to a full-scale war on smugglers. Reasons cited are different priorities and lack of time, money or manpower. The next section therefore considers whether government policy has had any kind of effect on smugglers’ organizations.

8.3 CHANGES?

One indicator of the hierarchical human smuggling vision is that where government policy is stricter, the organization of human smuggling is also more hierarchical. However, a network approach assumes precisely that more small groups will work together. Formally speaking, since the beginning of the research period

(1996), a relatively tougher approach has been taken over the years to combating human smuggling (and illegal residence). Nevertheless, the previous sections have also shown that in practice there are a number of major qualifying comments to be made. Either one of the two effects (stricter policy or holes in the implementation) is stronger, or they cancel each other out.

The latter possibility is probably true. In the era following the introduction of Article 197a there have been various investigations into the smuggling of Chinese nationals. The results as regards cooperation noted and criminal involvement in other areas have already been presented in the previous chapters. However, it is striking that no significant differences can be found between the beginning and the end of the research period (1996-2003). The method of transport, the type of people involved and ultimately also the type of organizations that can be identified remained the same throughout the research period.

Firstly, for example, an examination of the contents of the files failed to show any differences in the working methods of the smugglers over the years. In 1996 migrants were hidden in precisely the same way in the load on a lorry heading for England as they were in 2003. The use of look-a-like documents did not change either.

Secondly, the same types of people were involved in these forms of smuggling in 1996 as in 2003. The number of people involved who already had a criminal record was not greater than in 1996. In both years the vast majority of the Asian suspects had no criminal record. The ethnic composition did not change either. Over the years Westerners and non-ethnic Chinese have always been involved in these smuggling activities. The proportion of women involved can be considered fairly constant. An average of three in 20 defendants every year are women (see table 10).

Thirdly, over all the years of the research period, there were also no differences discovered in cooperation methods used in the Netherlands. Table two showed that there was no structural increase in the size of the business in 2003 (which would imply a larger organization) compared with 1996. The case files do not show any changes in the type of organization either. In all the years of the research period more or less the same people always worked together. The way in which the smuggling journey from China to the West was organized did not change either. During the research period, smugglers received their clients by a network of suppliers. The method of pre-financing did not change either.

The only notable change is a slight increase in the smuggling price. For example, a smuggler told he had raised his smuggling price after four years for a trip to America by 2,000 USD (case 28). However, for lack of information we do not know if other organizers along the route also raised their prices. Moreover, the price of more or less everything increased during this period, and we also know too little about the demand to be able to derive a relationship here between government policy and the sums paid for smuggling. A greater need for smugglers may simply have driven prices up. That greater need is not simply the consequence of a stricter Dutch government policy as regards entry possibilities. The Netherlands has in fact increased rather than decreased the number of visas issued for legal entry over the years, for example as a tourist or on business.

More importantly, developments in China itself make it only recently possible for many people to travel abroad. Although critics might say that the current migrants from Mainland China can point to economic and political motives, it must not be forgotten that these reasons existed already before (probably even more so), but for a long time there was only very limited migration from Mainland China. When Deng Xiaoping took power definitively in 1978, important changes in policy began to be made. This period is also described as the period of the Open Door Policy. This meant that the Chinese government was facing a major catch-up operation in order to catch up economically after years of mismanagement. The aim of throwing open the borders (the Open Door Policy) was to enable foreign investors to establish branches in China (Terrill, 1980: 923). The restrictions that had applied until then on the movement of goods, services and people were slowly lifted. It also became increasingly easy to leave China to reunite families, for study purposes, for work or as a tourist. The Chinese government began to realize that migration could ease the overpopulation problem and at the same time bring in welcome foreign capital (Custers, 1983: 7). In 1985 a new emigration law came into effect in China. Anyone who could show a letter from an overseas Chinese sponsor was offered the opportunity of being given a Chinese passport (Pieke, 2002: 11). In the years after that it became even simpler and easier to get a Chinese passport (BuiZa, 2004: 40; China Daily, 2003; People's Daily, 2002; XNA, 2003).

The only noticeable effect of tightening up of Dutch government policy was that smugglers became more careful and learned from their mistakes. For example, one smuggler told another that he had read in the newspaper in 1997 that the police could listen in on landline telephone calls and that it would therefore be better to use mobiles (case 28). When it later emerged that the Dutch police also listened in on mobile calls, the smugglers thought that calling from a telephone box at the corner of the street would be safe (which was not the case). Some (but take note, not all) smugglers also started talking more often in code: there were no references to smuggled humans, only to balls or boxes (case 29). References to false passports were replaced by references to booklets or notebooks (case 22). The transcripts of tapped conversations show that smugglers also allow for the possibility of border controls. For example, one transporter was told that he would be best advised to take the ferry to England between three and six o'clock in the afternoon because it was very busy then and the checks were less rigorous (B22). But all these types of measures have nothing to do with a change in the setup of the smuggling organization. There were no further changes in the smuggling group itself as regards composition and structure. The smugglers only became more careful in practice.

Finally, this reflection on government policy makes also clear that it is precisely because of the various cracks in the system in practice that it definitely remains possible for individual or small-scale smugglers to become or remain a success in human smuggling.

8.4 CONCLUSIONS

Various government reports have made it clear that the Dutch government wanted to fight human smuggling with all it had in the 1990s. One of the reasons was that the percentage of asylum seekers and illegal migrants coming to the Netherlands with the help of the so-called ‘human smugglers’ or ‘travel agents’ had been estimated at three quarters of the total number (see chapter one). The idea was that by tackling human smuggling, the influx of illegal aliens and asylum seekers would decrease. Whether this opinion was correct or not is actually not relevant for the purposes of this research. We will also skip the debate about whether smuggling is a positive or negative phenomenon.³⁷ What matters is that this opinion did help to shape official policy and this chapter is precisely about the consequences of that policy. However, the remedy may be worse than the disease. A side effect of a more restrictive admissions policy and more repressive investigation methods may be that more and more people turn to human smugglers to enter the Netherlands. There is then the danger that illegal migration to the Netherlands (and the West as a whole) will become more professional and more a part of the criminal world as a result. In other words, the services of the human smuggler are becoming more important. Simple ways of smuggling are disappearing, and only the large-scale ‘smuggling organizations’ remain.

The position of the Dutch government therefore has the potential of significantly affecting the activities studied. A convenient dividing line is the beginning of 1994. At that time, a new article of legislation (197a of the Penal Code) came into force, which made smuggling of humans a criminal offence for the first time. This article was tightened up in 1996 (and 2005). Based on the common opinion that more government involvement leads to the criminals becoming more professional, smuggling should theoretically have had a low level of organization in the period before the article came into force in 1994. The level of organization should have increased after the article came into force in 1994, the establishment of various new government institutions to combat human smuggling and other policy measures making residence and asylum more difficult. However, it is often forgotten that this line of reasoning can just as easily be turned round: it could be precisely the active government pursuit following the coming into force of Article 197a that causes the previously large-scale organizations to start operating on a smaller scale to prevent discovery. Scale reduction may therefore take place. The professionals from before would then need to be less noticeable in their work. Large-scale organizations would be too noticeable and thereby would present a risk of detection.

The data showed that organized human smuggling of Chinese nationals into the Netherlands was already taking place before the Second World War. But there are also signs that human smuggling groups were active between 1970 and 1990. However, it was not possible to find enough substantive information on the pre-

37. Due to the restrictions on legal migration, smuggling can be considered a solution by potential migrants. And without it, could the asylum seeker have reached the Netherlands? See for example (Doornhein, 1996; Florin, 1996; Koser, 2001; Morrison & Crosland, 2001; Vermolen, 1999; Wijn-Maatman, 1999).

1970s era to sufficiently investigate a possible change in the level of organization in respect of the Netherlands. This therefore left the possibility of investigating the period between 1994 and 2003 – the period for which enough research information was available – to determine whether any changes had taken place in that period. But surprisingly, no changes in the type of organization could be found in that period. Between 1996 and 2003, the characteristics and type of smuggling organization did not change. An important finding is that certain problems from the 1970s that obstructed any effective government approach to tackling Chinese illegal aliens at that time are still present. Because the Chinese embassy does seldom recognize illegal Chinese migrants as citizens of the People's Republic of China, it becomes difficult or impossible to deport them. Such a practical look at the situation shows us that Dutch government action needs to be held up to more scrutiny so that statements can actually be made about the possibilities and impossibilities of a low level of organization or even unorganized human smuggling. Contradictions were found. For example, economic interests take precedence over a very strict visa-issuing policy. Human rights considerations place restrictions on overly enthusiastic police action. In addition, political, economic and above all technological developments have caused a phenomenal increase in international mobility in recent decades. It is therefore not the case that the possibility of entry has remained the same whilst the government has only become stricter.

In spite of a policy that is sometimes ambivalent, illegal residence or asylum has definitely become a less attractive option in the last 10 years and in that time police investigation of smuggling has increased. However, this still does not necessarily mean that *only* professional smuggling organizations (hierarchies or networks) pull the strings. The holes noted in the system in practice are very suitable for maintaining a small-scale type of organization. A good example is the lack of a criminal law approach to checks on false guarantors. A guarantor can operate at a small scale and fraudulently invite one or two people each year with a very small risk of being discovered. Even if he is discovered, there will not be any rapid consequences because the State is afraid of long drawn-out legal proceedings that can cost more money than they save. It clearly remains possible for individual or small-scale smugglers to enter or remain in the human smuggling business. This makes a migratory approach very possible. What is striking is that examples of small-scale smuggling occurred more often in the few interviews that were conducted for this research in the Chinese community than they did in the files. But these small-scale smuggling examples would probably not have been picked up by investigation teams

Still, the supposition that stricter policy causes human smuggling organizations to reorganize themselves, remains valid. However, actual practices need to be carefully looked into. In the Dutch situation, the risk of detection has not increased manifold. This is probably why there were no significant changes in organization in the research period between 1996 and 2003.

9 Final remarks

9.1 THE WHOLE, THE SUM AND THE PARTS

Through newspaper articles and government reports, the general public nowadays is familiar with certain characteristics of Chinese human smuggling. For instance, there are snakeheads who orchestrate the smuggling journey from China to the West. These journeys can take weeks or even months. The traveling conditions are not always entirely risk-free (the 58 migrants who suffocated while crossing the English Channel to Dover in the year 2000 is an example that springs to mind). The smuggling fee may be as much as 30,000 euros. It takes the migrants years to repay this debt, often by working in exploitative conditions.

All of these statements are correct. But as the whole becomes more than the sum of its parts, a disturbing picture emerges. It seems that the smuggling of Chinese people is an evil business in which migrants fall prey to powerful criminal organizations. However, concentrating on certain other characteristics of Chinese smuggling makes a different assessment possible. For instance, interviews with smugglers show that they are generally not involved in all types of crime. Transport is often provided for migrants through their family networks and social contacts. Migrants themselves prove not to be hapless victims but consciously use the services that smugglers provide. After Clausewitz, human smuggling seems nothing more than the continuation of migration by other means.

Although these two views contradict each other, it does not necessarily mean that one is right and the other is wrong. They can co-exist alongside each other. Some migrants use smugglers who put them through horrible experiences, whereas others are helped by a good friend and have no problems at all. The difference between these two contrasting findings can often be explained by looking at the kind of data that are used as well as the method by which the data is collected. The conclusion that smuggling is carried out by a powerful criminal organization is often based on government reports and official statements, whereas the conclusion that smuggling is carried out through looser social networks is often based on field interviews. Although studies based on fieldwork generally do not use the conclusions of government reports, the reverse is not always the case. Several government reports acknowledge that individuals or small networks can smuggle illegal aliens into the country. However, these reports emphasize the existence of other, much more serious forms of smuggling, the so-called *organized* forms of smuggling. These are encountered (and combated) in large-scale police investigations. Field research would supposedly miss these kind of smuggling organizations because they are deemed unapproachable.

The same issue emerged in relation to a Dutch study of cocaine trafficking, which was based on, amongst others, interviewed cocaine dealers. The study showed that cocaine shipments to Holland and the subsequent distribution were not controlled by large Colombian cartels (Zaich, 2002). A former Dutch direc-

tor of the Prisma team (a police team dealing with cocaine trafficking) called the research a valuable contribution, but at the same time remarked that the researcher did not have access to certain information that actually confirmed the existence of such organizations (personal conversation).

It makes one wonder if the materials obtained through police investigations do indeed throw a whole new light on the subject at hand. Zhang and Chin acknowledge that because their sample is based on field interviews through the technique of snowballing, there is a possibility that “any more organized and closely guarded groups, such as those managed and controlled by traditional organized crime groups, might have been unavailable to the researchers and their contacts” (Zhang & Chin, 2004: 11).

It cannot be denied that police investigations have certain methods at their disposal to obtain information that researchers relying on field interviews do not have. Most noteworthy is the use of wiretaps, the continuous monitoring of suspects and the ability to conduct thorough searches of persons and premises. If there is a possibility that field interviews see only a partial part of the picture, police files are most likely to present another piece. This thesis had the opportunity to analyze just the kind of data likely to contain the more organized type of smugglers: court files. By using these so far relatively underused data in a complementary fashion with the known findings from field research, it is possible to gain a better, more complete understanding of the ways people cooperate to smuggle Chinese migrants.

This final chapter is structured as follows. The next section presents a number of straightforward findings that have a bearing on the subject of organization. These findings are then discussed from a more theoretical point of view and compared with other studies. Finally, some policy implications are highlighted.

9.2 FINDINGS

This research is based on the analysis of all court files (88 cases concerning a total of 172 unique individuals) regarding the smuggling of Chinese nationals, stretching from 1 January 1996 to 31 December 2003. The analysis of these files centered on the main question, namely who are the smugglers of Chinese people and how do they collaborate with each other? With regard to the first theme, a closer look was taken at the defendants who were brought to court on suspicion of smuggling Chinese people. Thereafter, the research focused on how these defendants cooperated with each other. Based on the literature on organized crime, human smuggling and migration as well, three different types of cooperation were then distinguished. These are hierarchic organizations, looser organizations through social networks and migratory ties. Chapter two further outlined certain characteristics per type of smuggling organization, which are briefly described below.

If human smuggling is organized according to a strict hierarchy, it stands to reason that smugglers work together in fixed combinations for long periods of time. The entire smuggling operation from China to the West is centrally man-

aged and monitored. The human smuggling literature presents such organizations as being likely to be involved in other types of crime, like the narcotics trade or extortion, for example. Smuggled individuals are also said to be at great risk of being exploited by the organization because the migrants are not likely to have a social relationship with their smugglers, they are indebted to their smugglers and they have to repay the smuggling fee. Government suppression causes smuggling organizations to become larger scale, as small-time smugglers perceive the risks in continuing their trade to be too great. The smuggling market will therefore become more professionalized.

However, the hierarchical vision is also contested. Supporters of the network view could argue that social contacts and friends give rise to criminal activity, not enforced orders from a top-down bureaucratic organization. Therefore, the human smuggling will be characterized by various (changing) combinations of smugglers. There is no central management or monitoring of the entire process. If there is criminal heterogeneity, it cannot be attributed to the smuggling group but arises from the conduct of a few individuals. The smugglers are not structurally involved in the exploitation of their clientele, the more so because of the likelihood that these clients include family members and fellow villagers. If exploitation occurs, third parties are responsible. Government suppression will reinforce the network effect, resulting in more small-scale operations and outsourcing between groups.

A migratory perspective, which is in fact a non-criminal market-based approach, sees smuggling as nothing more than migration by illicit means. Smuggling is not the sole domain of criminal organizations, but can occur on a much smaller scale. Where the smuggling operation is effected primarily through the direct mediation of friends or family members, there is little organization involved. The clients are likely to be restricted to family members or fellow villagers. It is unlikely that diverse criminal activities will accompany this form of smuggling. Exploitation, if it occurs, can be placed within the (negative) framework of social capital. It is difficult to determine the effects of government suppression. Greater pursuit of existing criminal groups will have little effect on people who smuggle family members. By contrast, a broader focus on those who violate the letter of Article 197a would bring more non-criminal people to the attention of the police.

In the preceding chapters, we have looked at all these different focus points to determine the type of organization. It turns out that all three views have empirical support, although the network perspective is overall the most applicable to the data from the court files. The migratory view appeared not to provide such a good explanation of the data. In retrospect, this was somewhat to be expected as smuggling via migratory ties is situated more on the unorganized end of the smuggling spectrum. Such incidents are not always investigated and subsequently brought to court because certain 'invisible thresholds' of police practice come into play. For example, interviews with government officials show that investigations are more likely to be carried out if more than one individual smuggler is involved in more than one incident. In addition, tactical police information has to be relatively new, that is, it must not be more than a few months old. Pref-

erably, there has to be some proof that the 'subjects' will still be involved in smuggling after a new investigation starts (although such information is often only obtained after the actual investigation has been carried out). Another important reason why migratory forms of smuggling are hardly found in the data is the anti-smuggling legislation itself. During the research period, the law stipulated that pursuit of profit in relation to illegal border crossing was an essential element of smuggling. This profit motive was sometimes difficult to prove in border crossing incidents, especially if no follow-up investigation was carried out. Some special forms of small-time smuggling are also completely absent. No sanctions were applied to those who fraudulently became guarantors of visa applicants. Some officials stated in interviews that the costs of prosecution would outweigh the benefits. The chances of a conviction were slim and possible punishments negligible. The result of all these restrictions is that small-time smugglers (the so-called 'mom and pop' smuggling operations) are essentially absent from the files. However, the remarkable thing is that in the couple of field interviews conducted in the Dutch Chinese community at the start of this research, examples of small-scale smuggling were prevalent. Other field research in different migrant communities in the Netherlands also encountered this type of smuggling (Engbersen, 1999; Staring, 2001).

Although the data lacked information regarding migratory matters, a number of conclusions on the more organized forms of human smuggling could be drawn. These concern the persons involved and the type of cooperation. Before these are presented, however, the reader should be aware that there is one peculiarity of the type of smuggling encountered in the files:

- The cases brought before Dutch courts predominantly concern the smuggling of Chinese migrants out of the Netherlands. The Netherlands apparently functions as a transit country, not a destination country. The preferred destination of most illegal migrants is Great Britain.

When we look at the smugglers involved, the following observations are important:

- Out of a total of 172 defendants, 44 were non-ethnic Chinese (32 Europeans and 12 Asian). About a quarter of all the smugglers involved were therefore non-ethnic Chinese. These 'foreign devils' often act as large-scale transporters, smuggling dozens of migrants at a time.
- About 13% of all smugglers were ethnic Chinese women. Although they constituted a minority, some played a very important part. Five of them could be described as organizers of large-scale transports. Over the years, these women coordinated the smuggling of hundreds of migrants, controlled the financial aspects and maintained international contacts with other smugglers.

With regard to the type of cooperation between smugglers, the following findings are significant:

- Large-scale investigations showed the same persons carrying out the same tasks over a long period of time (i.e. several years). Because particular smugglers worked together in fixed combinations for long periods and were geographically limited to a certain city, distinct smuggling groups could clearly be distinguished. Cohesiveness was further strengthened because within a smuggling group, affective relationships were prominent from the start. Group membership followed ethnic lines and also sometimes coincided with family relationships. Any contacts with outsiders (e.g. people of another nationality) were also quite stable.
- The relationships between smugglers within these groups were generally informal and friendly. Family or shared backgrounds (e.g. common village roots) were likely contributing factors. Although every smuggler could be assigned certain core functions (organizer, transporter, enforcer, etc.), these distinctions did not lead to a rigid hierarchy. For example, organizers were not distant bosses but were involved in the daily affairs, even doing menial jobs themselves.
- Violence within smuggling groups did occur, but not on a structural level. Over an eight-year period, several beatings and three murders were recorded. However, these should not be seen as evidence of the strict, disciplinarian nature of human smuggling organizations. Nearly all of the beatings were related to one smuggling organization. It would therefore be dangerous to generalize based on this one particular case. The murders were likewise not a sign of leadership. It was not strict discipline but fear and marital infidelity that led to bloodshed. It is also noteworthy that out of 172 defendants, only six people were charged with illegal possession of firearms. Furthermore, there is no record of violence between smuggling groups in the Netherlands and smuggling groups abroad.
- No evidence was found of a central organization controlling any (let alone all) smuggling operations, either from the Netherlands or from abroad. The degree of diversity found in smugglers and in smuggling groups (large and relatively small) also makes it implausible that there is overall control. In the same vein, it was impossible for one particular smuggling organization to establish a monopoly in the Netherlands. Although some smuggling groups were responsible for the smuggling of hundreds of people, at the same time there were many others (large or small smuggling groups and also individual smugglers) who were active, each independently using different methods and strategies. With the absence of a central organization and the lack of local domination or coordination, it is therefore safe to say that each smuggling group functioned autonomously.
- Because smuggling groups act autonomously, a good reputation is essential. Those who fail to successfully smuggle people across borders will lose customers. Those who succeed in getting people undetected to Great Britain will

see their business grow by word of mouth. The clientele comes from two spheres. First, the organizers receive the bulk of their clients from *other organizers* abroad. Although there is no central organization, this does not preclude interaction between smuggling groups. Secondly, migrants themselves also contact smuggling groups. They (or their family) choose to hire the services of a smuggler for a particular leg of the journey. Some simply turn to those with whom they previously had a good experience. Others rely on the recommendations of friends. As one smuggler explained to an investigating officer, he did not need recruiters. Potential migrants would come to him because of his good reputation.

The smugglers mostly concentrate on smuggling and do not display heterogeneity in criminal behavior:

- No evidence was found of smugglers selling migrants into prostitution. Over an eight-year period, only one case of Chinese prostitution was recorded. However, the defendant turned out to have nothing to do with smuggling women and was acquitted. Furthermore, the file gives the impression that the woman entered prostitution of her own free will (although freedom of choice is debatable when one has an illegal status combined with financial problems).
- Although interviews with officials established that a large percentage of robberies were carried out by illegal migrants, this by itself is not proof of a direct link with human smuggling. The court files showed no evidence that robberies and extortion were carried out by, or at the instigation of, human smugglers. In the rare case that a file contained a link with robbery or extortion, ensuing investigations showed no structural involvement of the smuggling group, but rather the actions of an individual member.
- In no single instance did any Asian crime group use its trafficking routes and personnel for the (simultaneous) transportation of both narcotics and migrants. During the research period, there was also no evidence of structural involvement of several well-known Chinese drug traffickers in human smuggling. Although a few Asian individuals were involved in narcotics smuggling, the smuggling group as a whole was not.
- In general, smuggled persons worked very hard in the illegal labor sector, which could sometimes end in exploitation. However, there was no evidence that large-scale smuggling groups were directly involved in this exploitation. On the contrary, it was only the small-scale smugglers who directly employed illegal migrants.

There is a lack of empirical evidence of a cause-and-effect relationship between more stringent government policy and the organization of human smuggling. However, one important finding can be highlighted:

- Over the last couple of years illegality and asylum have become less attractive options for smuggled migrants. At the same time, more and more resources are being poured into combating human smuggling. However, this does not mean that only professional smugglers are in control. Some fundamental problems in dealing with illegal Chinese migration that were encountered in the 1970s are still present. The most important of these problems is the difficulty in removing illegal Chinese people from the Netherlands. There are also contradictions. Economic interests trump a watertight visa procedure. Human rights curtail overenthusiastic police activity. These 'holes' make it possible for small-time forms of smuggling to still exist and to continue to exist.

9.3 DISCUSSION AND THEORETICAL IMPLICATIONS

What conclusions can be drawn from the above findings? For the most part, the court files show many similarities with field interviews from other studies. The involvement of women (Zhang & Chin, 2002: 746), the lack of central coordination (Zhang & Chin, 2002; Zhang & Gaylord, 1996), the general absence of violence between smugglers (Zhang & Chin, 2002: 755; Zhang, 1997: 327; Zhang & Gaylord, 1996: 7), the importance of a good reputation (Zhang & Chin, 2002: 757) and the lack of criminal diversity (Pieke et al., 2004; Zhang & Chin, 2002) have already been commented upon in field research. It is therefore essential to stress that these similar observations have been derived from such diametrically different sources. It is not only the difference in field interviews or police investigations, but also the difference in terms of geography. Most field studies are based on source or destination countries, i.e. the People's Republic of China and the United States, whereas this study deals with transit smuggling from a European country.

Nevertheless, the presence of non-ethnic Chinese and the cohesion of smuggling groups are two distinctive additional observations. Field studies often miss the presence of non-ethnic Chinese because the focus is generally on the Chinese community, i.e. ethnic Chinese smugglers. The observation about the cohesion of smuggling groups could be derived from police investigations because they closely followed the actions of several important organizers for eight months or more. It is likely that this type of smuggler is difficult to interview. These two observations have the following implications.

The predominant function of non-ethnic Chinese smugglers in the Netherlands is to transport large numbers of migrants. Western transporters are ideal in several respects. Not only do Westerners attract much less attention than Chinese nationals during a border crossing, but the Chinese smugglers also lack the skill and knowledge to keep large-scale transportation 'in house'. They therefore have to rely on outsiders with the knowledge to obtain a lorry and (fake) cargo and with

the necessary skills and papers to drive the lorry. It is therefore logical to find Chinese smugglers making use of outsiders. They transported large groups of (up to 60) migrants on a regular basis whereas ethnic Chinese transporters were generally only able to transport a few migrants at a time. In the case of these ethnic Chinese transporters, they either accompanied the migrants through Customs at Schiphol Airport or drove them across the borders in private vehicles or small vans. Larger groups would attract too much attention because border guards are especially on the lookout for suspicious groups of tourists or Asian drivers with Asian passengers. But this also leads to the following hypothesis: without these non-ethnic Chinese transporters, Chinese organizers would have smuggled a significantly smaller number of migrants. Or, to put it another way, the Chinese smugglers who use Western transporters can become important organizers. Equally, Chinese smugglers who do not use non-ethnic Chinese will only be able to transport migrants on a smaller scale.

However, when a Chinese smuggling group used non-ethnic Chinese, these individuals did not become intrinsically part of the Chinese group. The transportation was merely outsourced. Sometimes a lone individual (such as a lorry driver) was found; at other times a Westerner would act as a go-between and subcontract the actual transportation within his own circle of friends and acquaintances. The relationship between ethnic Chinese and Westerners is thereby purely instrumental. An indication of this instrumentality is that, in contrast to members who are intrinsically part of Chinese groups, the Western transporters are immediately paid for each service rendered.

Certain statements about Chinese smuggling need to take account of the fact that Westerners are not intrinsically linked with Chinese smuggling groups. This relates to the rate of criminality and the percentage of women involved. Non-ethnic Chinese generally have extensive criminal records. They are the more typical 'career' criminals who are involved in a life of petty or more serious forms of crime. Ethnic Chinese generally do not have such records (although Asian smugglers not having criminal records from their home countries still leaves open the possibility that they were involved in different types of crime in those countries). Therefore, if all ethnicities are added together, the overall effect is a rise in general crime rates. If the ethnic Chinese smugglers are treated as a separate group, the general crime rate drops because they did not display heterogeneous criminal behavior in the period that they had been living in the Netherlands. It should also be noted that the inclusion of non-ethnic Chinese in this study (often in a typical male profession such as lorry driver) also lowers the overall percentage of women smugglers involved. Based on the court files, the figure for the Netherlands was 13%. Zhang and Chin's field study revealed an 18% involvement of women (Zhang & Chin, 2002: 746). If this study based on court files had not included the non-ethnic Chinese, the percentage of women would have risen to 17%, which is similar to field studies.

Another finding is that the same smugglers cooperated in the same setting and carried out the same functions over a long period of time. Moreover, it stands to reason that these individuals were wary of police interference and, to some extent, of possible competitors. These outside pressures were likely additional

factors in the forming of smuggling groups. The Chinese smuggling world in the Netherlands therefore does not consist of individuals who form “temporary business alliances” (Zhang & Chin, 2002: 758). The portrayal of criminal partnerships as loose networks nowadays all too easily disregards the fact that the relationships between criminal individuals can be relatively stable. The Chinese smugglers are not only bound by instrumental relationships, but also display certain mutual affective interactions (e.g. family, personal history) that result in strong cohesion (see also Bruinsma & Bernasco, 2004: 81). These bonds do not indicate flexibility and fluidity but durability and consistency.

However, this cohesion should not be mistaken for proof of the involvement of any ‘triads’. Human smuggling is a crime that is well organized, but by itself that does not make it equivalent to (traditional) organized crime (Zhang & Chin, 2003: 477). The files show no triad groups smuggled Chinese migrants; nor was any formal Chinese organization involved based on region, occupation or clan affiliation (also known in America as ‘Tongs’). One possible explanation for the absence of such more traditional criminal groups might be the country or place of birth of most ethnic Chinese defendants. Hong Kong and Taiwan have more of a ‘triad’ history than does mainland China. But as table 11 showed, the number of Chinese nationals from Hong Kong and Taiwan is relatively low compared to the number from mainland China, notably Fujian and Zhejiang Provinces.

Although smuggling groups are quite cohesive at a local level, the term ‘temporary business alliances’ is an appropriate description when the *whole* smuggling route is taken into consideration. It is well known that a smuggling trip from China to Great Britain includes transition through several countries. For instance, the journey from China to London may pass through Moscow, the Czech Republic, Germany and Holland before the migrants arrive in London. Different stages of the journey are taken care of by different smuggling groups. Because the Netherlands is situated en route to Great Britain, the smugglers in the Netherlands take care of this part of the journey. It is tempting to view all of these smuggling groups across several countries as being connected through one long chain where each group of smugglers passes the migrants on to the next group. Under such conditions, it would be logical to expect central coordination. But as the metaphor of a chain is an over simplistic view, it leads to faulty conclusions. The files show that the Chinese smuggling groups in the Netherlands take on assignments from several organizers abroad. Migrants who start out with different smuggling groups in China, e.g. groups A, B and C, can at one time or another be transported together by the Dutch ethnic-Chinese smuggling group D. As smuggling group D transports migrants for different organizers, the group is accountable to all and thereby to no one in particular. It goes without saying that group D is responsible for upholding its part of the deal as in any normal business arrangement. This usually amounts to transporting a certain number of migrants to Dover, for example, after which another smuggling group takes over. Once the migrants have been delivered, group D’s responsibility ends and new assignments can be taken on (or not). Furthermore, because the Dutch Chinese smuggling world is made up of several groups, organizers abroad are not limited to group D. For example, if a Chinese smuggler based in Germany has more

migrants than group D can handle, he or she will simply contract these other Dutch smuggling groups. In the meantime, migrants also approach smuggling group D independently to ask for assistance in getting across the Channel. Rather than through central coordination, smuggling is harmonized by looser organizations through social networks. It is not known how and why these transnational relationships came into existence. The files do not contain enough information on the groups abroad to assess the existence of affective relationships between smuggling groups in Holland and smuggling groups abroad, for example. Judging from intercepted telephone conversations, it is unlikely that these relationships are all based on mutual backgrounds or family ties.

However, these contacts and relationships with organizers abroad often go beyond the transient level. Smugglers (as with most people) will usually stick to routine. If one side is content with the work of the other side, they are likely to continue this business relationship in future. Relationships with external people (i.e. people outside the core smuggling group) will therefore consolidate. If an organizer abroad is reliable, he will be sought out time and again. The same happens at a local level. If a Dutch lorry driver is trustworthy, he will be given more jobs. Unless interrupted by police investigations, a temporary situation may last a lifetime.

Some other observations might need more explanation. The files showed no connection between large smuggling groups in the Netherlands and forced prostitution or other forms of socio-economic exploitation of migrants. Although this tallies with field interviews, critics might point out that some smuggled migrants endure bad treatment in the Netherlands. One telltale sign is the employment of enforcers. In order to maintain discipline, large smuggling groups use enforcers to beat up migrants if they make too much noise or otherwise step out of line. Migrants are also maltreated to ensure quick payment of the smuggling fee. In addition, accidents do occur during smuggling attempts. However, it is important to point out a number of distinctions. Not all smuggled migrants suffer hardships during their journey. A large (although unknown number) simply fly in through Schiphol Airport instead of hiding in lorries or crossing borders on foot. It would also be foolish to suggest that the smuggler does not care if his clientele makes it alive or not. A smuggler might not be emotionally involved with those he transports, but as mentioned before, he does care about his reputation. Besides, if the smuggled people agreed to pay only after their arrival, this is probably more than enough incentive for a smuggler to make sure that his customers arrive in one piece.

Such distinctions do not disprove the possibility that smugglers exploit migrants. However, if we allow for the autonomous smuggling groups, organizers are only responsible for what happens at that particular stage that they control. According to the stories of some Chinese migrants, they were sexually abused in China or Moscow while they were being smuggled. However, due to the nature of the smuggling business, this leg of the journey is done by other, local smuggling groups. Any abuse that happens abroad cannot therefore be blamed on organizations based in the Netherlands. This would explain why no evidence of sexual abuse in the Netherlands has been unearthed whereas the Asy-

lum Seekers Medical Reception Centre (*Medisch Opvang Asielzoekers*) reports cases of abused underage Chinese asylum seekers, unwanted pregnancies and venereal diseases (Van Oss, 2004).

Furthermore, if repayment of the smuggling fee is due through some kind of indebted relationship to smugglers, this is more likely to occur in the destination countries than in a transit country such as the Netherlands. However, it is also important to realize that it is against the smugglers' interest to wait for years of monthly paybacks (Chin, 1999). The longer the link lasts between the smuggling group and the clients, the more risk the smuggler takes. If the smugglers were to exploit the people they smuggle, not only would they have to keep track of dozens or maybe even hundreds of people, but it would also leave them more vulnerable to the police. Most smugglers therefore use pre-financing methods. The complete smuggling amount is immediately paid by friends, family or entrusted third persons as soon as the migrant arrives at his destination and confirms his well-being to them. The migrant is then released from the smuggler's custody and is free to go. This does not mean that the migrant is free of all debt. He will have to repay *his friends and family* by working very hard. But it is not the smuggler who collects these monthly fees because the smuggler already has his share.

Whereas large smuggling groups concentrated on certain parts of the smuggling route, e.g. smuggling migrants from the Netherlands to Great Britain, the opposite could also be observed. The smaller the smuggling group, the more likely they were to be involved in the complete journey. A small-time, individual smuggler is able to arrange for the journey of no more than one or two migrants a year, most likely by direct flight. That means that he does not have such an enormous logistical problem as large-scale smuggling groups have. But it also means that the one type of smuggler who has the complete smuggling journey under control is the type of smuggler who is in migratory circumstances. It also implies that it is *not* the professional smuggler who is involved in any socio-economic exploitation, but the small-time, family-oriented smuggler who acts because of migratory reasons. These 'harmless' smugglers will not demand payment up front or immediately after arrival. They do not use prefinancing. Instead, after they have brought over a relative free of charge, social-capital effects can come into play. Reciprocity ensures that a migrant feels obliged to repay the favor. For example, he may start to work in the family restaurant for little or no pay. Because family bonds are very well known in the literature on migration, providing labor as repayment for help with migration is often not interpreted as exploitation in relation to smuggling. Nevertheless, from a judicial point of view, it could be argued that a person helped a migrant to enter the country and in turn benefits in the form of cheap labor. However, because such types of smuggling are very low key, they are difficult to investigate and remain largely absent from the data. Conversely, these are just the type of smugglers that will be approached for information in field interviews.

Looking back at all the files, it does not seem very useful to attribute certain Chinese characteristics to the smuggling process. It should be noted that most smugglers (and migrants as well) do not stem from backward enclaves in which time has stood still for hundreds of years. On the contrary, most smugglers are

natives of Fujian and Zhejiang, the two most advanced provinces economically in mainland China. It stands to reason that language and appearance set Chinese smugglers apart from indigenous criminals (which, for that matter, will also contribute to the formation of Chinese smuggling groups). But the same argument also holds for Turkish, Somalian or Colombian groups. A foreign language or a darker complexion is not an example of a sinological or anthropological distinction. Specific characteristics such as a sense of honor, a desire for revenge, cruelty, loyalty, manners and politeness - in short the standard repertoire of the comic-book variety of Chinese culture - could not be distinguished. Furthermore, the defendants did not follow any 'code of silence'. Almost everyone talked during police interviews, and a number confessed or accused each other. It is noteworthy that men were more cooperative with the police than women, but this could just as likely be gender-related, instead of culture-related.

Objections to the use of the *guanxi* concept are raised in this study. It is supposedly only through this 'unique' phenomenon that social interactions between Chinese and outsiders can be explained (Myers, 1995). This wrongly suggests a very typical ethnic component. A simple exploration of other academic fields will show the *guanxi* concept to be nothing more than a simplified form of social capital. However, using *guanxi* as an exclusive new method of explanation puts all interactions in a social vacuum and hinders comparisons with other nationalities.

The unique Chinese characteristics that could be found were so few in number as to represent only anecdotes. For example, one smuggler supposedly brought 108 migrants at one time to Great Britain and thereby established her reputation (Meeus, 2001). The fact that 108 is not a round number suggests that the figure is correct. However, this is most likely an apocryphal story with symbolic meaning for the Chinese community (Buddhism). Does it matter if a Westerner missed any deeper implications? Probably not, because everyone will pick up the connotations. The number 108 simply symbolizes a large number of people that the smuggler was able to transport, which will enhance the smuggler's reputation.

Ultimately this study also leaves some questions unanswered. The files largely deal with transit smuggling. But an unspecified number of illegal Chinese migrants are also living in the Netherlands. Were they smuggled in? If so, who was responsible for bringing them in, large-scale smugglers or the mom-and-pop ones? And why would they choose the Netherlands as a destination country? Only fieldwork can tell us more, as case files have insufficient information in this regard.

Not every aspect of human smuggling is understood. Skeldon noted, "of all the unknowns associated with [smuggling], perhaps the most intriguing is that of the economics of the trade" (Skeldon, 2000: 21). Maybe some smuggling fees are huge (e.g. 30,000 euros) because the journey is handled by several autonomous organizers and their entourage. Each organizer charges several thousands of dollars for his or her services, which ends up in a large total amount. It is therefore possible that other migrants who paid far less (e.g. 10,000 euros) were able to arrange for some parts of the journey themselves and only had to use a smuggler just before they reached the final destination. Another big question is how smug-

glers along the route receive their profits. Chin's earlier field study among smuggled migrants mentioned that it was unclear how profits were split or how money was actually transferred (Chin, 1999: 34). Follow-up field research among smugglers did not clarify this question (Zhang & Chin, 2002). Did smugglers use Informal Money Value Transfer Systems? How does a smuggler in Europe obtain his money if prefinancing methods are used? Unfortunately the police files were unable to shed any new light on financial matters because that kind of information is largely absent from the files. In addition, it is unlikely that the problem will be alleviated in the near future, especially since the Dutch anti-human smuggling legislation was amended in 2005. The legislation now no longer describes the offence of human smuggling as being the offering of help in illegal access and transit *in the pursuit of profit*. This makes for easier prosecutions, but there is less incentive to look at financial flows. As we grow to know more and more about smuggling routes, methods and operations, a gap in our understanding of the financial side becomes all the more jarring.

It could not be established why female smugglers led some of the largest smuggling organizations. Maybe it was because human smuggling is generally not seen in migrant communities as a serious crime, there is no social stigma attached and it presents a good opportunity to make money. Maybe human smuggling is a male-oriented business as long as the smuggler and the migrant come from different ethnic backgrounds. It is possible that, when the smuggler and the migrant come from the same or a similar ethnic background, women are more likely to become involved. The files showed that women accompanied migrants through Customs checks, accommodated them in safe houses or even orchestrated the smuggling. These are all activities that necessitate close contact with the migrant. Non-ethnic Chinese were only involved in mass transportation (or the occasional sale of false passports). This does not warrant any interaction with the migrants. Maybe women are considered less threatening and thus have a head start at building a good reputation. If smuggled migrants are only seen as victims, a smuggler's reputation might seem irrelevant. But as is often shown in field research, migrants are not hapless victims but consciously use the services that smugglers provide (Pieke et al., 2004). Nevertheless, the files indicate that the rationale behind choosing a smuggling organization based on female management would be flawed. Some of the worst mistreatment of migrants occurred in female-led organizations.

Government sources contained too few materials to adequately research how the smuggling of Chinese nationals changed between the Second World War and 1996. Retired investigators were also unable to shed more light on this subject. In their heyday, human smuggling was not prioritized. Consequently, the lack of data made it difficult to research the supposedly evolving interaction between government and human smuggling organizations. Theoretically though, it is possible that more repressive government action will force human smugglers to organize themselves differently. However, a careful look at actual practices makes it very plausible that there is still no need for any significant changes. In the Dutch situation, a lack of manpower, time and resources, as well as different priorities, have certainly not increased the risk of detection (IAM, 2005). Keep in

mind, though, that other research has already shown that there is no room for assumptions. Spener points out that between 1977 and 1984 - an era before border security was heightened - about 80% of Mexican migrants crossed the American border with the help of 'coyotes' (human smugglers) on their first attempt (Singer & Massey, 1998: 586) in (Spener, 2001: 147). The only way to understand more about earlier forms of Chinese human smuggling organizations in the Netherlands is to interview senior Chinese citizens.

Future research should also be alert for possible changes. One such possibility is the growth of Chinese prostitution. During the research period, Chinese prostitution in general was a very small matter in the Netherlands. However, from around 2003 police officers started to report the presence of more Chinese prostitutes. Even Dutch newspapers reported the existence of Chinese hairdressing salons that started to provide extra-curricular services to customers (Smits, 2005). It is unclear who these prostitutes are, where they came from and how they became involved in this line of work. Are more migrants arriving in the Netherlands without any social capital? Or do smugglers become involved in trafficking?

It is also possible that human smuggling organizations evolve. Some successful large-scale smugglers earn large amounts of money, which propels them into a different league. During the research period, it had already been observed by police officers from the Criminal Intelligence Unit that some organizers were given a lot of respect in the Chinese (criminal) community. When they went out at night they would surround themselves with bodyguards, gamble away a lot of money, and have other people make room for them. Such behavior is bound to attract attention and impress other 'criminally inclined' people. It is therefore not impossible that some sort of fusion could occur. Successful human smugglers might be approached to participate as an investor in different criminal ventures. Or a smuggler might need the assistance of somebody wanting to clear an outstanding debt. Most intra-group beatings that were noted in the files were allegedly outsourced. Maybe it is therefore a matter of time before Chinese smugglers link up with Chinese drug dealers, for example. Because the files show that most relationships become consolidated over time, it is therefore possible that in future Chinese human smugglers will become more structurally involved in other forms of crime. Likewise, an enduring instrumental relationship between a Chinese organizer and a Western transporter can also change into an affective relationship. At that point, it is possible that the hitherto homogeneous smuggling groups will also become more ethnically mixed.

Finally, it should be noted that this thesis has focused solely on Chinese human smuggling. But can the findings from this study also be applied to the smuggling of people from other ethnic backgrounds? We must remember that many different nationalities are also being smuggled by their compatriots and others. In the Netherlands, Chinese nationals are far from being the largest group (IAM, 2001a, 2002, 2005). More comparative research into other smuggled nationalities is therefore needed.

9.4 STRATEGIC AND POLICY IMPLICATIONS

In the preceding chapters we have seen who the smugglers are and how they cooperate. When a police investigator read a previous version of this manuscript, however, he commented that it was very interesting but actually of no practical use for the ‘work floor’. A smuggling case would be investigated and if two or more people were working together, Article 140 of the Dutch Penal Code could be applied. This article states that participation in an organization whose purpose is to commit crimes is punishable by six years in prison. There is no definition of the characteristics that such an organization must have. So who cares how smugglers organize themselves?

In this regard the aforementioned police investigator is probably right: it does not matter to the prosecutor how defendants operate together. On the other hand, there is a practical reason for considering what kind of organization is involved in (Chinese) human smuggling. In the long run, the hierarchical, network and migratory perspectives do have certain consequences as regards police investigations. A blueprint of hierarchical smuggling organizations gives the police a clear focus. Once the leadership is eliminated, the organization supposedly crumbles. Because leaders carefully hide themselves behind front men, long-term investigations (and lots of money) are needed. From a network point of view, on the other hand, investigators should focus on identifying nodes and facilitators. Taking them out would severely cripple smuggling groups as they would no longer have the right contacts. Such police tactics are known in the Netherlands as ‘short blows’. Notice that in the traditional hierarchical view, these facilitators were seen as only the inferior pawns to the important bosses (Kleemans & Kruisink, 1999). A market-based approach is to look for structural solutions because as long as there is a market for goods or services that cannot be obtained legally, illegal alternatives will be created.

Because all three views of the organization of the smuggling of Chinese migrants have some truth in them, these different strategies all have their strong points and weak (or impractical) points. Let us consider some aspects, starting with the hierarchical outlook.

9.4.1 Hierarchical policy

The files show that smuggling groups exist and are quite stable. There is a leader in the person of an organizer. It is therefore proper for the judicial authorities to prosecute these people. In order to make a strong case the prosecution generally tries to prove the involvement of these organizers in as many smuggling attempts as possible. This leads to long-term investigations that take at least several months but can even stretch over a year.

However, it is debatable whether the end always justifies the means. After several appeals, organizers rarely receive prison sentences that are longer than three or four years. It is therefore noteworthy that the average prison sentence for a transporter who is caught *in flagrante delicto* is 18 months. Such cases only take

a couple of days to document and therefore only cost a fraction of long-term investigations. So why would the government invest such a disparate amount of time in the prosecution of an organizer? Officials may insist that there is an important difference between a transporter and an organizer. It is not difficult to prove that a transporter is involved, but it is supposedly very difficult to prove that an organizer is involved. Furthermore, a transporter can easily be replaced whereas the arrest of the organizer will discontinue the smuggling operation.

But let us reconsider certain findings from this study. The coordination of smuggling is very time-consuming. Organizers are therefore not 'distant master-minds'. Instead, they are heavily involved in the day-to-day affairs of human smuggling (see also Kleemans & Van de Bunt, 2003: 102). Once an organizer was identified, his involvement could soon be confirmed. At this point, usual police practice takes over. The prosecution wants to make sure they have a strong case and therefore wants to establish the scale of the smuggling and the importance of the organizer by recording as many smuggling attempts as possible. For this reason, the investigation is allowed to continue for months. At the same time, because of telephone interceptions, the police will know beforehand (if they are promptly translated) when a smuggling attempt will take place and try to sabotage it. Failed smuggling attempts also erode the reputation of the organizer, create financial troubles for the people involved and therefore create friction between smugglers.

But do we really need to prove the organizer's involvement in another twelve smuggling attempts *that will happen in the future* simply to place him in a more central role? It is also not entirely without (political) risk. What if a smuggling attempt succeeds? What if a smuggling attempt is prevented by the police but ensuing friction among smugglers (blaming each other) results in violent confrontations? What if a transporter is detained and the organizer finds a replacement who would otherwise not have been involved?

Furthermore, the focus on organized criminals is in itself a problem. It is true that organizers who manage large-scale smuggling groups are responsible for the smuggling of hundreds of migrants a year. But at the same time it should not be forgotten that individuals and very small groups are also active. As was argued in chapter eight, the professional smuggler does *not* completely dominate the field. Individual smugglers can still use intervening opportunities like business or family visas. These examples are very low key and therefore difficult to investigate. It is noteworthy that such cases are largely absent from the court files for precisely these reasons. While on the other hand, examples of small-time smugglers are quite easy to find through fieldwork. It is therefore not a remote possibility that more people are smuggled into the country by individuals than by large smuggling groups.

9.4.2 Network policy

This brings us to a networking approach to counter human smuggling. In this approach, facilitators and nodes are important targets. They are essential to the

functioning of the network. The loss of important individuals or any mishap along the route would weaken or bring on the demise of a smuggling group (Zhang & Chin, 2002: 763).

However, the files show that there are also problems with this approach. Although the theory is sound, reality by and large nullifies this strategy. The idea of essentiality is difficult to apply. Although it is a good idea to take out key figures, the problem is that it seems that every smuggler is easily replaced. Knowledge is shared within the smuggling group, probably due to the affective nature of these organizations. Besides, smuggling groups do not depend on any one specific facilitator. A prime example is the Dover case. The Chinese used other means after the non-ethnic Chinese transporters were prosecuted. And once the Chinese group was arrested, others took over. Although at the time of writing those others have also been arrested, officials believe that they have now been replaced, too (B6).

The files also show that when organizers, transporters, etc. are arrested that still leaves many others in place. For budgetary, judicial or other reasons, not everybody involved can be prosecuted. It is very likely that these remaining others will somehow learn from the experience, fill the gaps and continue the smuggling business. In addition, putting somebody in prison does not stop him from transferring his expertise (or contacts) to his next of kin, as could be observed in some instances.

The network approach has a better chance if its implications are considered. The smuggling of Chinese nationals does not happen in a vacuum in the Netherlands (or any other country). As these research findings make clear, the overall smuggling process never depends on one essential link, simply because it does not follow a chain structure. Therefore, even if one Dutch group were completely taken out by everyone involved being arrested; their contacts in Germany or the Czech Republic would simply go to the next Dutch organizer on their list. This can only be countered by transnational police cooperation. However, the international exchange of police information about smuggling (as well as other types of criminality) has to date been scarce.

9.4.3 Market-based policy

A market-based approach allows for some interesting theoretical solutions. However, it is unlikely that these will be put into effect. For instance, it can be argued that migrants use a smuggler because they cannot enter a certain country by legal means. Therefore, handing out visas to all applicants would simply spoil the smuggling market. However, such a solution would obviously be too radical and defeat the purpose. A slight variation on this theme has the government replacing the smuggler's function. If migrants are willing to pay exorbitant prices to be smuggled, the government should undercut these smugglers by selling long-term visas for less money. This would give the migrants the right to work legally. For more details on this train of thought, see (Jandl, 2005).

Another method is to take into consideration what aim Chinese migrants have: making money. Wang proposes more frequent checks on employers to discourage the hiring of illegal labor (Wang, 2001: Wang, 1996). In the Netherlands, illegal Chinese migrants are not employed in sweatshops (at the time of writing, only one Chinese sewing atelier had been discovered in the Netherlands); instead, they are usually employed in the Chinese restaurant sector. It therefore stands to reason that this illegal labor should be made more costly to the restaurateur than legal labor. This course of action would make the Netherlands unattractive as a place for Chinese illegal labor, and thus might lead to fewer migrants deciding to make the Netherlands their destination country. The experience of the Aliens Police (and some field interviews) shows that repeated controls indeed make restaurant owners wary of heavy fines (8000 euros per detected illegal laborer). They therefore employ fewer illegal dishwashers and cooks than they used to.

Critics may point out that such a solution is flawed as smuggled Chinese nationals escape persecution and have nothing to do with economic gains, although evidence to support these claims seems unconvincing, see also (Pieke, 2002). The biggest problem, however, is that controlling the Dutch labor market is only a partial solution. Because the Netherlands also acts as a transit country, better control of the Chinese restaurant sector in the Netherlands is of no use as regards stopping transit smuggling. Other countries have to extend their control of the illegal Chinese labor market as well. At the same time, we need to realize that migration factors also play a key role. Therefore, if we allow for the workings of social capital, illegal migration is not something that can suddenly be halted (Pieke, 2002: 38).

9.5 CONCLUSION

All in all, instead of concentrating on one particular strategy, a combination of some kind looks like the best option.

Migrant smuggling to the Netherlands is best countered not by more stringent border controls, but by effective post-border (internal) controls. That entails closely monitoring the work sectors in which illegal Chinese migrants are active, like Chinese restaurants. Employers have been shown to be more wary of using illegal labor if there is a high chance of detection and conviction. This in turn leads to a reduction in the demand for illegal labor and thus gives illegal migrants less incentive to come to the Netherlands.

However, post-border internal controls have no effect as regards stopping those smugglers who use the Netherlands as a *transit* country. Under the international Schengen Treaty, the Netherlands is obliged to prevent this from happening. The Netherlands therefore cannot totally rely on post-border controls and has to carry out police investigations to stop smuggling to other countries. In this regard, my data shows that investigations should be kept quite short if possible because long-term investigations do not return sufficient dividends. Shorter investigations free up money, time and personnel to carry out more investigations. If possible, more resources should be redirected at the smugglers who have

been caught red-handed. Even the best laid out (smuggling) plans often come apart at the moment of execution. This is when a smuggling group is vulnerable and that can lead to hitherto unknown organizers. It is therefore quite short-sighted to only prosecute a European lorry driver who is caught at the border with several illegal Chinese passengers hiding in the back of his lorry, unless time and money are also made available to investigate his contacts. It stands to reason that the European lorry driver had to be in touch somehow with ethnic Chinese smugglers.

The importance of a good reputation and the overall use of prefinancing also make it worth paying more attention to the smuggled migrants themselves. The reality for now is that most police officers think of any discovered illegal Chinese migrants (whether discovered during a smuggling attempt or as illegal labor) to be a problem. Because they do not cooperate with the authorities, it is often thought that nothing can be gained from them. Because an illegal status is not a crime, long detentions for migrants are seen as improper (see also Boone, 2003; Van Kalmthout, 2003). As chapter eight pointed out, most intercepted illegal Chinese migrants are therefore released from custody within a short period of time. As a matter of fact, this is not a uniquely Dutch problem, as the same practice is reported in other countries. For instance, a few days before the fatal Dover incident, a group of 60 illegal Chinese migrants were discovered in Puurs in Belgium. However, they were not detained very long and were told to leave Belgium and put on a train to the Netherlands (NRC, 2002). Naturally, after the discovery of the 58 bodies (and 2 survivors) a few days later, questions were asked in the Belgian Parliament. Remarkably, it turned out that the 58 victims had nothing to do with the original Belgian group of 60 illegal Chinese migrants (Buddingh, 2000). One might wonder if this really let the authorities off the hook. It still meant 60 other illegal Chinese migrants unaccounted for.

Nevertheless, why should an illegal migrant cooperate with the authorities? Fear of retaliation or apprehension in the face of unknown authorities might have something to do with it. But more importantly, both smuggler *and* migrant stand to win from a successful smuggling operation. The smuggler makes a profit and enhances his reputation which might lead to future business. The migrant arrives at his chosen destination. Therefore, when a smuggling attempt is detected, both smuggler *and* migrant lose out. The smuggler loses some money (along with a bit of his reputation) and will not receive full payment because of prefinancing arrangements. The migrant has not yet reached his destination and every day, week or month that he has to wait before another crossing attempt is made, is a day, week or month lost before he finds a job and starts to earn an income. It is therefore logical to assume that both smuggler and migrant will try to arrange a new smuggling attempt. Several files showed that this is indeed the case. As soon as the illegal Chinese migrants were released from police custody, they tried to get into contact with their smuggler. The smuggler subsequently picked them up by car or gave them directions to a safe house. Of course, tailing these migrants presented the perfect opportunity to gather new police information on hitherto unknown safe houses, etc. In other words, illegal migrants who are released from police custody will not wander around helplessly and do provide a definitive lead to their smugglers. We have to keep in mind that migrants

are not mere victims but consciously use the services of a smuggler in order to arrive at a preferred destination.

Appendix 1

Questionnaire used for court file analysis.

CASE INFORMATION

1. Codename investigation.
2. File number and name defendant.
3. Name Public Prosecutor.
4. Name team leader investigation.
5. Location investigation team.
6. Size investigation team.
7. Composition investigating team.
8. Start date investigation.
9. End date investigation.
10. Information defendant(s)
 - Name and nickname:
 - Date of birth:
 - Place of birth:
 - Sex:
 - Nationality:
 - Place of living:
 - Job or welfare:
 - Legal or illegal status:
 - Criminal history:
 - Function in the smuggling incident:
 - Other (e.g. education, etc.):

THE INVESTIGATION

11. Synopsis.
12. Source and reason to start the investigation.
13. Verdict.
14. Describe any formal police contacts with other countries.

CASE DETAILS

ROUTE

15. Destination.
16. Smuggling to or via the Netherlands.
17. Global route.
18. Give reasons for any known transit country.
19. Means of travel.
20. Did the smugglers make use of safe houses.
21. How many migrants were transported at the same time?
22. Total amount of the time period needed to arrive in the Netherlands.

23. Time period between certain stages along the route.
24. During which period were the smugglers active?
25. How often did the smugglers transport migrants?
26. How many persons were involved in each smuggling attempt?
27. Describe any failed smuggling attempts.

CUSTOMERS

28. Total amount of customers.
29. Sex of customers.
30. What area in China did the customers originate from?
31. How did migrants contact their smugglers? Were in-betweens used (e.g. recruiters, family, friends)?
32. Describe the relation between smuggler and client.
33. Who (and why) decided the smuggling destination?
34. Did the smugglers provide employment after arrival?
35. Were the migrants maltreated or threatened?

DOCUMENTS

36. Did the smugglers use legal or falsified documents?
37. Where were these documents made?
38. How were these procured?

FINANCIAL

39. Describe the way in which the migrant (or others) paid his smuggler.
40. Have there been any problems in regard to payment? What were the consequences?
41. Describe the (estimated) costs and profits.
42. Describe how the suspects have spent the proceeds of the smuggling.
43. Describe any possible money laundering activities.
44. Did the suspects use underground banking?

THE CRIMINAL COOPERATION

45. Do the defendants have a common background? (e.g. family, neighborhood friends, occupation, place of origin etc.).
46. If not, how did the cooperation start?
47. Did the smuggling group change in composition and size?
If yes, what are the reasons for these changes?
48. What is the specific function of the defendants? Are these functions fixed?
49. Describe the role women play.
50. Describe the type of organisation (pyramid, network).
51. Who is involved in what other criminal acts?
52. Is their interaction with other ethnicities? If yes, describe these.
53. Do the smugglers cooperate or compete with other smuggling groups?
54. How did smugglers shield themselves from prosecution or competitors?
55. What role does violence play? (e.g., intimidation, kidnapping, physical violence etc.)

56. Describe the nature and extent of contacts with law enforcement agencies, customs and local government. In other words, did corruption occur?
57. Describe the nature, extent and purpose of contacts with e.g. lawyers, accountants, notaries, other professionals.
58. Other?

Appendix 2

Brief overview of the measures and authorities involved in preventing and combating human smuggling through pre-border, border en post-border controls.

The first type of measures is remote border control techniques (such as visa requirements and pre-flight checks). These are employed with a view to creating obstacles to illegal entry, before individuals can even begin their journey. The Netherlands, in common with nearly all other Western states, has introduced visa requirements for travelers from high-risk countries. In the research period, 1996-2003, China was considered to be one of these high-risk countries. If the Dutch embassy in Beijing is to grant a visa, the person wishing to travel must meet a series of requirements. For instance, they must be able to demonstrate the purpose of their visit, prove that they have sufficient funds to support themselves, and identify guarantors within the Netherlands.³⁸ Another remote border technique is to station liaison officers in foreign countries. A number of Immigration Liaison Officers (ILOs) from the Dutch Immigration and Naturalization Service are stationed in China and Bangkok. These officers are responsible for preventing anyone lacking the correct documentation from boarding flights to the Netherlands. They are not permitted to carry out investigations or fine offenders; if they have doubts about certain passengers, they will advise the relevant airline not to carry those passengers. The airlines will generally comply with this advice, since transportation companies are fined if they are found to have brought a passenger into the Netherlands illegally. In addition, deportation costs may be recouped from the airline in question, or the airline may be required to carry passengers lacking the correct documentation back on the return flight (Tweede Kamer, 2003).

Standard border controls are the second type of measure. In addition, since 1994 the Netherlands has also had 'Mobile Border Supervision of Aliens' teams (*Mobiel Toezicht Vreemdelingen*; MTV), managed by the Dutch Royal Marechaussee (*Koninklijke Marechaussee*; KMar). These teams carry out checks on travelers into Schiphol airport on flights between Schengen states, and spot check car drivers and passengers in the regions bordering Germany and Belgium. In the latter case, patrol officers on motorbikes may direct 'suspect' cars to a car park alongside the freeway, where the occupants' identity papers will be checked.

A third method of control is the implementation of a range of post-border measures. Various legal and administrative systems have been established in order to make the Netherlands a more difficult and less attractive destination for illegal aliens and asylum seekers. Criminal investigations are also carried out. One can therefore speak of a form of *internal* border protection (Engbersen, 2004: 23, 24). Means of making illegal residence in the Netherlands less attrac-

38. Needless to say, a person who indicates a wish to seek asylum in the Netherlands will not be granted a visa. For a discussion of the ethics and legalities involved, see also (Bø, 1998).

tive include excluding illegal individuals from employment and housing, and also restricting rights to benefits, schooling, medical care, etc. A detailed review of the complex set of legislation that has developed over time in the areas of alien affairs, asylum and migration lies outside the scope of this thesis. That subject requires a separate research study. However, a number of key developments will be outlined to illustrate the general approach to illegal residence and asylum in the Netherlands.

Illegal aliens have not been able to register with their municipality as a new resident since 1991. As a result, they are not able to acquire a social security number (*sofi-nummer*). This has major implications, given the tightly regulated way of life in the Netherlands. Without a social security number, one cannot enter legal employment, open a bank account, or draw easily on various types of government support. Further restrictions were introduced in 1994 with a new identification law, which obliges people in the Netherlands to be able to identify themselves to the authorities. Under the new law, employees must be able to present legitimate identification papers in the workplace and when conducting bank transactions. The Benefit Entitlement (Residence Status) Act (*koppelingswet*) came into force in 1998. This Act creates a link between the Register of Aliens and the Register of Social Services. An illegal alien is consequently excluded from claiming government allowances, services, benefits, exemptions and licenses. So, only individuals with Dutch nationality and foreigners residing legally in the Netherlands have a right to draw on the collective social services.

Efforts are made not only to make the lives of illegal immigrants difficult but also to discourage those applying for asylum (and thereby trying to attain legal status). The asylum application procedure has become ever more tightly controlled, and obtaining full refugee status has become more difficult. The Aliens Act 2000 is one of the ways that this has been achieved.³⁹ In principle, refugees are as welcome as ever, but the award of real refugee status is subject to so many rules that in practice it is very difficult to be considered eligible. Another important change in the asylum application procedure relates to the status of minors. A single minor asylum seeker who will reach adulthood (18 years old) within three years will no longer be prepared for entry into Dutch society, but for return to their home country. The underlying view is that an individual who has reached adulthood should be treated as an adult. The temporary asylum status that this individual could derive through their minority therefore expires. They will be required to return to the country they came from.

The final weapon in the post-border combating of human smuggling is repressive government action. People who benefit from illegal residence or entry may be subject to criminal prosecution by various government institutions.⁴⁰

39. While many technical changes have been made in respect of aliens, the regulatory changes made in respect of asylum seekers are even more complex. For more information on these changes, refer to the Aliens Law 2000 and (Baudoin et al., 2000).

40. An individual who has been smuggled has not committed a criminal offence. He may only be prosecuted if guilty of other offences linked with the smuggling. Examples of such offences would be the improper use or counterfeiting of travel documents (art. 231 Sr.) and forgery (art. 225 Sr.).

The legislature first created the necessary framework for prosecution. The Netherlands signed the Schengen Agreement, concerning the gradual abolition of checks at its common borders, in 1990. At that point the Netherlands set itself the duty of incorporating human smuggling into the Dutch Criminal Code as a criminal offence. The actual implementation of the Schengen Agreement, and thereby the criminalization of human smuggling, was completed by the Netherlands on 31 December 1993, when article 197a of the Criminal Code came into force. The actual date of coming into force was therefore set at 1 January 1994.

The punishment due for human smuggling was initially set at one year. Many investigating officers, however, considered this term of punishment to be too short (B3, B4, B6, B7, B9). Many involved in investigations were of the opinion that the profits associated with human smuggling outweighed the risks. More emphatically, it was suggested that human smuggling was many times more profitable than smuggling in narcotics, which attracted far more punitive sentencing. Other types of criminal organizations were therefore thought to be attracted into developing their own human smuggling activities (Kwong, 1997: 70; Müller-Schneider, 2000: 148, 149). From this point of view, human smugglers should be dealt with more effectively in order to deter other potential criminals. More severe sentencing would moreover dovetail better with legislation effective in the other Schengen states.

The sentence was amended for the first time in 1996. The punishment due was increased from one year to four years. If conducting human smuggling while exercising an official position or profession, the sentence was increased from 16 months to six years. A new provision was also added to the article: any person found to have made a career or habit out of human smuggling, or who operates in a syndicate, may be punished with a maximum sentence of eight years. From a technical investigation perspective, another important development was that the four-year sentence, in comparison with the one-year sentence, allowed a wider range of options for the application of coercive means. Examples of such means of coercion include taking into custody, arrest with a warrant, preventive custody, search and seizure powers, and telephone tapping.⁴¹

In addition to these formal amendments to the legislation, the new role of 'National Coordinating Public Prosecutor, responsible for tackling Human Smuggling, Human Trafficking and Child Pornography' was created in 1995. This new role indicated how seriously the combating of human smuggling was being taken. The role was initiated partly in response to the need for government to combat human smuggling in an integrated way. It was recognized that up to that point, the criminal justice application of rules concerning the combating of illegal migration was typified by fragmentation, and that there was insufficient co-ordination between the Dutch Public Prosecution Service and the police to ensure effective prosecutions (Harchaoui, 2002: 3). In addition to the appointment of a national public prosecutor responsible for human smuggling, various

41. These means of coercion could also be applied under the old legislation (via a detour), for instance by referring to article 140 Sr. (participating in an organization that has the intention of committing crimes). Article 197a (human smuggling) was amended once again in 2005, but this amendment falls outside the consideration of the research period 1993-2003).

consultation panels were established (these have since been merged or abolished): the Mandators' Consultative Platform on Human Smuggling (*Opdrachtgeversoverleg Mensensmokkel*; OGO), the Human Smuggling Co-operative Platform (*Afstemmingsoverleg Mensensmokkel*; AOM), the Human Smuggling Co-ordination Platform (*Coördinatie Overleg Mensensmokkel*; COM), and the Human Smuggling Taskforce (*Taskforce Mensensmokkel*). For an outline of the remits of these consultation groups, see (Faber, 2002).

A number of different organizations are responsible for actual investigations and criminal prosecution. Several bouts of restructuring within the police service have caused a number of these organizations to change their names, close down or be absorbed into a central body. The following key organizations were active during the period to which this PhD research refers.

First of these organizations is, of course, the Dutch police service. Any team of detectives in any police district may begin an investigation into human smuggling, but a couple of services merit special mention. The Human Smuggling Information and Analysis Center (*Informatie en Analysecentrum Mensensmokkel*; IAM), based within the National Criminal Intelligence Department (*Dienst Nationale Recherche Informatie*; DNRI) in Zoetermeer, performed analyses and presented proposals for investigations into smuggling, though did not carry out investigations themselves.⁴² The national officer responsible for human smuggling allocated proposals to the appropriate offices of the Public Prosecution Service. The proposals could also be executed by the Human Smuggling Unit (*Unit Mensensmokkel*; UMS) in Zwolle.⁴³ This was a supra-regional core team that was specially established in 1998 with a brief to carry out, among other duties, large-scale investigations into human smuggling. For instance, the team was responsible for the *Fangie* (Chinese for tomato) investigation, the Dutch police investigation into the Dover affair. Another team worth mentioning is the South-East Asia Team, which operated from 1997 to 2001 in Rotterdam. This was a core team within the Rotterdam-Rijnmond District that targeted all types of crime connected with South-East Asia, including human smuggling of Chinese citizens.⁴⁴

42. The Center was initially established in April 1994 as a temporary project involving the Central Criminal Intelligence Service (Centrale Recherche Informatiedienst; CRI), the Immigration and Naturalization Service and the Marechaussee. Its brief was to provide a national co-ordination and information service in respect of the role played by fake or forged identification documents in human smuggling (LCIDO, 1996). The service was renamed in 1996 as the 'Human Smuggling Unit', and again in 1999 as the 'Human Smuggling Information and Analysis Center'. It reported to the head of the Services and Migration Unit (*Unit Services en Migratie*; USM), within the National Criminal Intelligence Department (*Dienst Nationale Recherche Informatie*; DNRI). The Human Smuggling Information and Analysis Center was abolished in 2005, and merged with the National Crime Squad.

43. The Human Smuggling Unit has since merged with the National Criminal Investigation Department, which was established in 2004. The National Criminal Investigation Department has a special focus on combating serious, organized (inter)national crime. Human smuggling (and human trafficking) are included in these areas of responsibility (KLPD, 2003: 46).

44. The investigatory Van Traa Committee reported that the Dutch police had too little knowledge of crime in the Asian environment. The South-East Asia Team was therefore founded in Rotterdam, to change this situation over a period of four years. After this period ended in 2001, it was decided that the South-East Asia Team should continue to function, within the Human Smuggling Information and Analysis Center in Zoetermeer.

The police service is not the only organization responsible for combating human smuggling. In addition to its 'Mobile Border Supervision of Aliens' duties, the Dutch Royal Marechaussee is also actively involved in criminal investigations. In 1994, for example, the Marechaussee set up the Facilitation and Detection Team at Schiphol airport. This team was originally established in order to stop Schiphol workers misusing their entry passes. It had been found that some cleaning staff members had been lending their passes to third parties, in order to bring people into Schiphol (Bruinsma, 1996b, p. 91). Three other specialist detective teams are active at Schiphol, carrying out more long-term investigations into human smuggling. The Marechaussee also participates in police human smuggling investigations by supporting the regional police services via 'Cross-Border Crime Teams' (*Teams Grensoverschrijdende Criminaliteit*; GOC). It also carries out many human smuggling investigations of its own from year to year (small and large-scale). The police Human Smuggling Information and Analysis Center has a parallel body within the Marechaussee, in the shape of the Migration Crime Office (*Bureau Migratie Criminaliteit*; BMC; formerly the Information Desk for Alien Affairs; *Infodesk Vreemdelingenzaken*) in Utrecht. This office also collects and analyses data related to human smuggling, but their information is only relevant to matters raised by the Marechaussee organization itself. The Dutch Immigration and Naturalization Service has a similar office incidentally. The 'Human Smuggling Information Group' (*Mensensmokkel Informatie Groep*; MIG) collects and analyses evidence in the field of human smuggling that originates from within the Service's sphere of activities.

The criminal justice approach within the Netherlands is directed not only towards those who help foreign nationals illegally enter the country (the so-called smugglers or facilitators). Landlords and employers who profit from illegal aliens are also tackled. Employers are subject to a particular fine, for every illegal immigrant found to be working for them. If a later check finds that an employer has again taken illegal staff into service, a higher cumulative fine will be applied. The so-called 'illegal alien memorandum' discussed within the Dutch cabinet indicates that this employer's fine will be increased from an average of 980 euro to around 3,500 euro per illegal employee (Tweede Kamer, 2004: 19). Such employer checks are generally carried out by the Labor Inspector (together with the Aliens Police). Sometimes particular professional groups are the focus of attention. Whether the target is the textile industry, the hotel and catering trade or agriculture, controls are carried out for a sustained period of time through a multidisciplinary collaboration (e.g., between the Labor Inspectorate, Aliens Police, Inland Revenue and fire department). In addition, the Social Information and Investigation Service (*Sociale Inlichtingen en Opsporings Dienst*; SIOD) was established in 2002 to combat large-scale fraud in the area of Social Affairs and Employment. This organization has now grown to a staff of around 280 people, working from a number of offices throughout the Netherlands.

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SAMENVATTING

De Chinese Mensensmokkel in Transit

Dit proefschrift gaat in op de vraag hoe de mensensmokkel van Chinezen in Nederland wordt georganiseerd. Daarbij wordt aandacht besteed aan de kenmerken van de smokkelaars en de wijze waarop zij met elkaar samenwerken.

De empirische basis van het proefschrift wordt gevormd door 88 rechtbankdossiers waarin sprake is van Chinese mensensmokkel. Deze dossiers hebben betrekking op de periode 1996-2003. In dit tijdsbestek is 178 maal een verdachte persoon voor de rechter gebracht. Wanneer recidive niet wordt meegeteld, is het aantal verdachten 172. De dossiers zijn doorgenomen aan de hand van een van tevoren opgestelde checklist. Historische gegevens over Chinese mensensmokkel zijn verzameld door de stadsarchieven van Rotterdam, Den Haag en Amsterdam te raadplegen. Daarnaast zijn ook diverse overheidsfunctionarissen in binnen- en buitenland en personen uit de Nederlandse Chinese gemeenschap geïnterviewd. Er zijn geen interviews met smokkelaars gehouden.

De aldus verzamelde gegevens zijn geïnterpreteerd aan de hand van verschillende perspectieven die in de literatuur over georganiseerde misdaad, mensensmokkel en migratie aanwezig zijn. Daaruit volgen drie verschillende theoretische benaderingen van Chinese mensensmokkel. Hierin wordt achtereenvolgens de betrokkenheid benadrukt van sterk hiërarchisch criminele organisaties, lossere netwerken of sociale banden en familiestructuren. De eerste twee benaderingen hebben een criminologische invalshoek, de derde een migratorische. Voor elk van deze drie benaderingen is een aantal terugkerende kenmerken benoemd. Het gaat daarbij om smokkelaars al dan niet in een vast verband opereren, of er centrale sturing optreedt, of de smokkelaars ook actief zijn op andere criminele terreinen, of de smokkelaars de migranten exploiteren en wat het effect van overheidsrepressie op de organisatie van mensensmokkel is.

De onderzoeksresultaten laten een gedifferentieerd beeld zien. De mensensmokkel van Chinezen heeft kenmerken van alle drie de benoemde benaderingen (hiërarchie, netwerk, migratie).

De hiërarchische benadering sluit aan bij de constatering dat er in Nederland vaste smokkelgroepen zijn te onderscheiden. Groepsvorming treedt op door het illegitieme karakter van de mensensmokkel gekoppeld aan de vaak fictieve, maar niet geheel irreële angst voor concurrenten. Deze groepsvorming is verder af te leiden uit het gegeven dat dezelfde verdachten op een continue basis met elkaar samenwerken, door één persoon worden uitbetaald, geografisch geconcentreerd zijn, dezelfde etniciteit gemeen hebben of soms zelfs een gemeenschappelijke familieachtergrond delen. Deze banden duiden op duurzaamheid en cohesie, niet op flexibiliteit en inwisselbaarheid. Dit verklaart ook waarom in de opsporingswereld nog voortdurend wordt gesproken over criminele smokkelorganisatie X of Y, hoewel dit doorgaans in de wetenschappelijke wereld als

achterhaald wordt bestempeld. Binnen die smokkelgroepen zijn de omgangsvormen overigens vaak vrij los. De omvang van de smokkelgroepen blijkt samen te hangen met het aantal migranten dat over een bepaalde periode kan worden gesmokkeld. Hoe meer migranten kunnen worden verwerkt, hoe groter de groep zal zijn. Voor grote groepen blijkt het essentieel om met niet-etnisch Chinese personen samen te werken. Deze nemen doorgaans het fysieke (clandestiene) transport voor hun rekening.

Het netwerk karakter komt het duidelijkst naar voren als niet alleen naar Nederland wordt gekeken, maar naar het gehele smokkeltraject. Niet alleen in Nederland zijn verschillende smokkelgroepen actief. Ook in het buitenland zijn verschillende smokkelgroepen te onderscheiden. Het is de samenwerking van deze diverse groepen over verschillende landen die het mogelijk maakt dat groot-schalige mensensmokkel optreedt. Het gaat hier echter niet om eenvoudige ketenstructuren waarbij zich in ieder land een volgende schakel bevindt. Een smokkelgroep in Nederland neemt namelijk voor verschillende buitenlandse groepen opdrachten aan: het smokkelen van mensen naar Groot-Brittannië. Wie succesvol is, verkrijgt een goede naamsbekendheid. Dit komt als vanzelf de klandizie weer ten goede. Het is hierbij belangrijk om er op te wijzen dat de smokkelgroepen in Nederland voor die diverse buitenlandse organisaties *tegelijkertijd* smokkelopdrachten uitvoeren. Daarmee zijn zij niet gebonden aan één groep in het bijzonder maar zorgt het 'contractwerk' feitelijk voor zelfstandigheid. Er is in het smokkeltraject dan ook geen sprake van centrale sturing of controle, maar van onderlinge uitbesteding. Overigens moeten de relaties met buitenlandse smokkelaars ook weer niet slechts als vluchtige contacten worden gezien. Smokkelaars zullen vaak de weg van de minste weerstand kiezen en al eerder gebaande paden blijven volgen. Als een contact voldoet, wordt deze keer op keer aangezocht. In die zin kan de samenwerking met externe relaties ook geconsolideerd raken.

Aangezien de grote smokkelgroepen slechts een gedeelte van het smokkeltraject uitvoeren, rekenen zij ook slechts een gedeelte van de totale smokkelsom. Het vervoer vanuit Nederland naar Groot-Brittannië kost doorgaans een paar duizend euro per persoon. Dit levert een Nederlandse smokkelorganisatie die maandelijks tientallen mensen kan smokkelen, een aanzienlijke totaalomzet op. Omdat de totale smokkelroute over diverse deeltrajecten verloopt, kan de uiteindelijke smokkelsom in de tienduizenden euro's per persoon oplopen. Hoe dit geld uiteindelijk bij de organisatoren terechtkomt is onduidelijk. Uit de dossiers blijkt in ieder geval niet dat de grotere smokkelgroepen migranten exploiteren om maandelijkse aflossingen te verkrijgen. Er zijn in de dossiers ook geen verbanden met gedwongen roofovervallen, de handel in verdovende middelen of gedwongen prostitutie aangetroffen.

Voor het verkrijgen van de smokkelsom wordt doorgaans een andere methode gebruikt die in deze studie als 'voorfinanciering' is betiteld. Bij deze methode heeft de te smokkelen persoon voor aanvang van de reis al op een of andere manier de totale reissom geregeld. Dit is niet zo vreemd als op het eerste gezicht misschien lijkt. Vanuit de migratieliteratuur wordt er op gewezen dat het niet de allerarmsten zijn die doorgaans vertrekken. Belangrijk is ook dat migratie

niet de beslissing is van slechts één individu, maar dat meerdere personen (familie, vrienden) hier belang bij hebben. Uit de dossiers komt naar voren dat de migrant op het moment van aankomst in het land van bestemming, zijn familie of vrienden op de hoogte stelt van zijn behouden aankomst, waarna deze de smokkelaar uitbetalen. Deze methode heeft voor alle partijen voordelen. De gesmokkelde is er zeker van dat hij niet wordt opgelicht. Familie en vrienden zien het als een goede investering aangezien zij (met rente) zullen worden terugbetaald door de migrant. En de smokkelaar is ook zeker van zijn opbrengsten. In het bijzonder grootschalige smokkelaars hebben hierbij baat. Voor hen is het te arbeidsintensief om jaar na jaar maandelijks het loon van gesmokkelde illegalen af te moeten romen. Bovendien vergroten zulke praktijken het risico op ontdekking. Dit verklaart ook waarom in Nederland niet in de dossiers wordt aangetroffen dat smokkelaars de gesmokkelden via gedwongen prostitutie of andere vormen van sociaal-economische uitbuiten. De smokkelaar heeft immers zijn geld al uitbetaald gekregen. Dit wil echter niet zeggen dat gesmokkelden nooit worden uitgebuit. De schuld van de gesmokkelde blijft namelijk wel staan bij hen die deze smokkelsom hebben voorgesloten (familie of bekenden). En het gaat nog steeds om hoge bedragen. De migrant zal deze schuld vervolgens alleen kunnen aflossen door lange werkdagen te maken. Zodoende worden migranten wel in uitbuitingssituaties aangetroffen, maar is hier geen directe link met hun smokkelaars. Een uitbuiting door de smokkelaar wordt doorgaans slechts aangetroffen bij de kleinere, individueel opererende smokkelaars. De reden hiertoe ligt in het karakter van migratie. Een individueel opererende smokkelaar zal eerder zijn eigen familie of bekenden proberen te smokkelen. Hierbij is het onderling vertrouwen groter dan wanneer de gesmokkelde een onbekende is. Voorfinanciering hoeft dan ook niet gebruikt te worden. Gesmokkelde familieleden zullen hun dankbaarheid tonen door vervolgens voor minder dan het minimum loon in bijvoorbeeld het restaurant van de smokkelaar te gaan werken.

Het gebruikte onderzoeksmateriaal laat echter een adequate analyse van dergelijke constructies nauwelijks toe. Ten eerste gaat het om opsporingsonderzoeken, geen sociologische situatieschetsen. Daardoor is er bijvoorbeeld weinig terug te vinden over de sociale banden tussen gesmokkelden en hun smokkelaars of werkgevers. Ten tweede worden kleinschalige vormen van smokkel, de vormen die nu net met een migratieperspectief in verband worden gebracht, meestal niet voor de rechter gebracht. Kleinschalige zaken hebben een geringe kans op vervolging omdat zij door hun incidentele karakter niet alleen lastig om te ontdekken zijn, maar ook moeilijker strafrechtelijk te bewijzen.

Voor de beantwoording van de laatste onderzoeksvraag is gekeken of er interactie bestaat tussen de mate van overheidsrepressie en de structuur van smokkelorganisaties. Sinds 1994 is mensensmokkel voor het eerst in de Nederlandse wetgeving strafbaar gesteld en zijn diverse oude en nieuw opgerichte overheidsorganisaties zich met de bestrijding van mensensmokkel gaan bezighouden. Er werd echter geen duidelijke interactie tussen overheidsbeleid en smokkelorganisaties ontdekt. Voor de onderzoeksperiode 1996-2003 zijn geen meetbare veranderingen opgetreden in de organisatie of uitvoering van de mensensmokkel. Ook kan niet worden gesteld dat kleinschalige smokkel door groot-

schalige smokkel is verdrongen. In theorie blijft het weliswaar mogelijk dat strenger overheidsbeleid er toe bijdraagt dat mensensmokkel geprofessionaliseerd raakt, maar de realiteit wijst uit dat eenvoudige vormen van smokkel (bijvoorbeeld valselijke visa garantstellingen) nog steeds vrij risicoloos uitvoerbaar zijn. Dit betekent dat smokkelaars die slechts in het klein opereren, oftewel de smokkelaars die vanuit het migratieperspectief handelen, voldoende overlevingskansen hebben. Daarnaast moet het 'nieuwe' aan het fenomeen mensen-smokkel worden gerelativeerd. Al vóór de Tweede Wereldoorlog vond er in georganiseerd verband Chinese mensensmokkel plaats. Het ontbreekt echter aan adequaat bronnenmateriaal om deze periode exact te kunnen analyseren. Hoe deze organisaties precies waren vormgegeven, kan derhalve achteraf niet worden vastgesteld.

Kortom, de uitkomsten van dit onderzoek laten zien dat de mensensmokkel van Chinezen kenmerken heeft van zowel een hiërarchische, netwerk als migratie benadering. Daarbij komt een netwerk benadering voor wat betreft de gehele smokkelroute het best tot zijn recht. Verschillende groepen werken met elkaar samen en creëren zodoende een smokkeltraject. Wie uitsluitend de blik op Nederland richt, zal echter het hiërarchische meer karakter opvallen, dat wil zeggen, vaste groepen waarbinnen een *primus inter pares* fungeert. Door de aard van het gebruikte onderzoeksmateriaal, komt de migratie benadering minder uit de verf. Daarmee hebben de resultaten van dit onderzoek vooral betrekking op de georganiseerde kant van het mensensmokkelspectrum. Toch is een migratie perspectief een belangrijk element in de puzzel van Chinese mensensmokkel. Hiermee is bijvoorbeeld de methode van voorfinanciering goed te verklaren.

Merk ten slotte op dat de dossiers grotendeels betrekking hebben op uit-smokkel naar Groot-Brittannië en niet insmokkel naar Nederland. Het zijn dus zaken waarin Nederland een transitrol speelt. Smokkel waarin Nederland het einddoel is, zou daarom theoretisch gezien enigszins kunnen afwijken van de onderzoeksbevindingen. Bovendien geven de dossiers geen informatie over hoe de gesmokkelden in het buitenland worden behandeld of wat de kenmerken van hun smokkelaars aldaar zijn. Deze studie zou daarom in een aantal landen gereproduceerd moeten worden om te bepalen of de Nederlandse situatie (zoals deze hier beschreven staat) uniek is.

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“A cynical child”, my mother used to say of me, “with a pessimistic outlook on life in general”. Well, I guess that is why I felt right at home among the officers of various serious crime squads. Here, I interacted with the dregs of humanity, and sometimes the people they arrested too. In these circles, a degree from Leiden University did not carry a lot of weight for those who had graduated from the ‘school of hard knocks’ and that other renowned institute, the ‘university of life’. On the other hand, an accredited master’s title does have some advantages. As long as they do not make a nuisance of themselves, scholars are considered harmless types, unthreatening so to speak. What’s more, they are expected to ask self-evident questions that give the old hands a chance to explain the world as they understand it to the youthful inexperienced. It is through these talks that I came to realize that I had simply failed to notice what was happening in that proverbial ‘own backyard’. During my study at the department of Chinese Languages and Cultures (in the nineties), the focus was (of course) directed on China and its neighboring countries. So we studied the economic developments, political reforms, social upheavals, etc. that were taking place *over there*. However, no lecture was ever devoted to the ongoing illicit migration of Chinese to Europe. I am therefore grateful to Derk van der Zee, head of the former ZOA-team in Rotterdam, who gave me my first chance to examine this topic. A few years later, I was lucky to have the support of Marten Dijkstra, head of the former IAM. By cutting through red tape, he made it possible for me to carry out this Ph.D. research. It is noteworthy that Marten’s successor later disclosed that if it had been up to him, the terms of my working conditions would have been much less favorable.

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